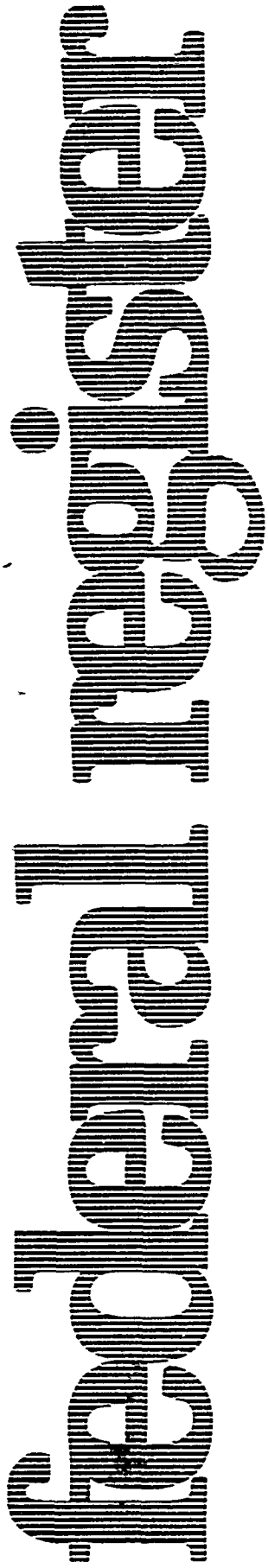
9-19-79
Vol. 44 No. 183
Pages 54291-54446



Wednesday
September 19, 1979

# Highlights



CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The Federal Register will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies of 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the Federal Register.

Area Code 202-523-5240

# Highlights

# Contents

Federal Register
Vol. 44, No. 183
Wednesday, September 19, 1979

## MEETINGS ANNOUNCED IN THIS ISSUE



## CHANGED MEETING



## RESCHEDULED MEETING

## CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

# Rules and Regulations

Federal Register
Vol. 44, No. 183
Wednesday, September 19, 1979



## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

### 7 CFR Part 411

### Grape Crop Insurance Regulations; Extension of Sales Closing Date

**AGENCY:** Federal Crop Insurance Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the Grape Crop Insurance Regulations for the 1980 crop year only by extending the final date on which applications may be accepted for grape crop insurance in California counties where such insurance is authorized to be offered. This action is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

**EFFECTIVE DATE:** September 19, 1979.

**FOR FURTHER INFORMATION CONTACT:** Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

**SUPPLEMENTARY INFORMATION:** On September 1, 1976, the Federal Crop Insurance Corporation (FCIC) published in the Federal Register (41 FR 36792) the Grape Crop Insurance Regulations for the 1977 and Succeeding Crop Years (7 CFR Part 411), which prescribed procedures for insuring grapes. The Grape Crop Insurance Regulations provide that December 10 immediately preceding the beginning of the crop year shall be the closing date for accepting applications for such insurance.

The Board of Directors of the Corporation approved the addition of grape crop insurance to two additional counties in California (Merced and Stanislaus) effective with the 1979 crop year. It has been determined that the December 10 date for accepting applications would not be equitable for California grape growers. In view of this, the date for accepting such applications in California is hereby changed for the 1980 crop year to January 31, as outlined below.

The provisions for extension of such date are contained in 7 CFR 411.3, wherein the Manager of the Corporation is authorized in any crop year to extend the closing date for accepting applications in any county upon his determination that no adverse selectivity will result. If adverse conditions should develop during such extension period, the Corporation will immediately discontinue the acceptance of applications. For the purpose of this extension, the Manager has made such a determination.

Since this final rule is merely an extension of the date for filing applications and will benefit grape producers, and such producers need to be informed of the extension immediately, it is found and determined that good cause exists for issuing this rule without compliance with the notice and public participation provisions of the Administrative Procedure Act (5 U.S.C. 553(b) and (c), and Executive Order No. 12044).

Final Rule

Accordingly, 7 CFR 411.3 of the Grape Crop Insurance Regulations for the 1977 and Succeeding Crop Years is amended effective for the 1980 crop year only by adding at the end thereof the following new paragraph:

§ 411.3 Application for Insurance.

* * * The time for filing 1980 crop year applications for crop insurance on grapes in California is hereby extended until the close of business on January 31, 1980.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516))

Dated: September 12, 1979.

Peter F. Cole,
*Secretary, Federal Crop Insurance Corporation.*

Dated: September 12, 1979.

Approved by:

W. Otto Johnson,
*Acting Manager.*

[FR Doc. 79-29068 Filed 9-18-79; 8:45 am]
BILLING CODE 3410-08-M

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 226

[Reg. Z; FC-0165 and FC-0166]

### Truth in Lending; Official Staff Interpretations; Suspension of Effective Date and Republication for Public Comment

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Effective date of two official staff interpretations suspended; texts reprinted for public comment.

**SUMMARY:** The Board is suspending the effective date of official staff interpretations FC–0165 and FC–0166, both of which discuss the proper Truth in Lending disclosures for transactions involving required deposit balances, published August 8, 1979 (44 FR 46438) and is republishing them for public comment. The agency is taking this action in response to requests for public comment submitted in accordance with 12 CFR Part 226.1(d)(3). Each letter requesting a comment period is published below and immediately precedes the text of its respective official staff interpretation.

**DATES:** The effective date of FC–0165 and FC–0166 is suspended until further notice. Comments must be received on or before October 19, 1979.

**ADDRESS:** Comments (including reference to FC–0165 or FC–0166) may be mailed to Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B–2223, 20th and Constitution Avenue, NW., Washington, D.C. between 8:45 am and 5:15 pm.

**FOR FURTHER INFORMATION CONTACT:** Maureen P. English, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3867).

**SUPPLEMENTARY INFORMATION:** (1) The effective date, September 7, 1979, of official staff interpretations FC–0165 and FC–0166 is suspended in accordance with 12 CFR Part 226.1(d)(2)(ii). The texts of the letters requesting the opportunity for public comment appear below. These interpretations will not go into effect until final action is taken. Notice of such action will be published in the Federal Register in approximately

60 days and will become effective upon publication.

(2) The texts of official staff interpretations FC–0165 and FC–0166 are republished for comment with the exception of language pertaining to their former effective date. Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(3) Interested persons are invited to submit relevant comments. All material should be submitted in writing to: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and should be received not later than October 19, 1979. Comments will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

(4) After comments are considered, these official staff interpretations may be amended, may be rescinded or may remain unchanged. Final action regarding these official staff interpretations will appear in the Federal Register.

(5) Authority: 15 U.S.C. 1640(f).

First Federal Savings,
*Phoenix, Ariz., August 14, 1979.*

Re: Official Staff Interpretation FC–165 Truth-in-Lending Proper Treatment of Required Deposit Balances (FLIP) Loans.

Secretary,
*Board of Governors of the Federal Reserve System, Washington, D.C.*

Gentlemen: The purpose of this letter is to request an opportunity to prepare a more detailed comment with regard to the above-referenced interpretation.

In summary, we believe that the interpretation is incomplete and improperly applies Supplement I of Regulation Z and a possible interpretation of FC–165 would result in a computation procedure that produces a significant underdisclosure of the annual percentage rate.

FC–165 seems incomplete in that it does not specify the proper procedure for distinguishing between principal and interest for an amount withdrawn from a pledged savings account. The equation in paragraph (f)(3)(ii) in Supplement I does not appear to be the proper one to use to calculate the annual percentage rate when applied to a FLIP loan because the deposit releases in the (f)(3)(ii) example are cash flows to the customer, whereas the "deposit releases" for a FLIP loan are not made to the customer, i.e., are not cash flows.

We believe the equation presented in paragraph (f)(1)(ii) is the proper one to use to calculate the annual percentage rate for a FLIP loan, using the initial loan amount as the single advance and the borrower's out-of-pocket expenditures as the payments stream. Calculation of the annual percentage rate based on the equation in paragraph (f)(1)(ii) is consistent with the actuarial method in that it deals explicitly with all actual payments made by the borrower in terms of both timing and amount; and it ignores the rate of interest applicable to the pledged savings account except as this rate affects the out-of-pocket payments required by a borrower.

We are requesting an opportunity to provide more thorough and illustrative comment regarding the calculation problems in applying to FLIP loans the equation approved by FC–165.

Yours truly,

Wallace T. Neal,

*Vice President.*

226.8(d)—Proper treatment of required deposit balance in disclosure of amount financed and payment schedule and in computation of annual percentage rate in a pledged savings account mortgage (modifies PI letters 265, 734, 864 and 1136).

226.8(e)—Proper treatment of required deposit balance in disclosure of amount financed and payment schedule and in computation of annual percentage rate in a pledged savings account mortgage (modifies PI letters 265, 734, 864 and 1136).

July 24, 1979.

This will reply to your letter of * * *, concerning the proper disclosures for a mortgage loan which is secured in part by a pledged savings account, a program very similar to that discussed in Public Information Letters 1257 and 1304. In this program a borrower pledges funds in an interest-bearing savings account deposited with the lender; during the first five or ten years of the mortgage, the lender withdraws amounts from the savings account to supplement the borrower's out-of-pocket payments in order to make up the total monthly mortgage payments. In Letter 1257 the staff expressed its opinion that the pledged savings account constitutes a required deposit balance for purposes of Regulation Z; in Letter 1304 we stated that the interest earned on the pledged account may not be treated as an advance for purposes of computing the annual percentage rate. You ask three additional questions about this program, which will be answered in order below.

You first ask how the amount of the loan and the amount financed should be calculated and disclosed when there is a required deposit balance. As you know, Regulation Z does not require disclosure of the "amount of the loan." It does, however, require disclosure of the "amount financed," which is defined in § 226.8(d)(1) as the amount of credit which will be paid to or on behalf of the customer, excluding, among other things, any required deposit balance. A transaction with a required deposit balance is, in effect, a multiple advance transaction, since the release of the deposit constitutes an advance by the creditor to or on behalf of the customer. The timing of the advance depends upon when the funds are made available. In your program, for example, if monthly withdrawals are made from the pledged account for five years, the transaction would consist of one large advance at the beginning, followed by 60 smaller, monthly advances.

A simplified example may be of some assistance in explaining this point. Assume a loan of $1,000 in which a required deposit balance of $200 is created at consummation and is to be released to the customer at the maturity of the loan. In this transaction there are two advances: $1,000 at consummation and $200 at maturity, for a total of $1,200 in advances. Deducting the required deposit balance of $200 from this figure results in an amount financed of $1,000. While this might appear to "cancel out" the effect of the required deposit balance, inasmuch as the amount financed of $1,000 is the same figure that would be disclosed if there were no required deposit balance or multiple advances, you will note that the existence of a required deposit balance has an impact on the annual percentage rate computation. This is because, although the disclosed amount financed does not reflect the timing of advances, calculation of the annual percentage rate does take proper account of the timing of advances. In this connection, see the annual percentage rate formulas beginning on page 10 of Supplement I to Regulation Z.

Applying this concept to your transaction, assume a $50,000 mortgage, with $5,000 deposited into the pledged savings account, a portion of which is to be withdrawn every month for the next five years. The transaction would be viewed as having one advance of $50,000 followed by 60 additional advances, the some of which equals $5,000. The total of advances thus would be $55,000. From this figure, you can deduct the required deposit balance of $5,000, to arrive at the amount financed of $50,000.

The staff has, in previous letters, stated that the amount financed in such a transaction could be disclosed as the difference between the initial advance and the required deposit balance, $800 in the first example and $45,000 in the second example described above (see Public Information Letters 265, 580, 734, 864, and 1136). Although the staff believes the disclosures described in this letter more properly reflect the value received in the transaction it believes that either of these two approaches may be used in disclosing the amount financed. In all cases, however, the annual percentage rate must be properly computed, taking account of the release of the deposit balance.

Your second question concerns whether the payment to be disclosed pursuant to § 226.8(b)(3) is the total monthly payment (i.e., the borrower's out-of-pocket payment and the principal and accrued interest from the pledged savings account), or whether it is only the "net" payment (i.e., the out-of-pocket payment and the earned interest from the account). You believe the payment required to be disclosed is the total payment, but wish to disclose the "net" payment as additional information pursuant to § 226.8(c). The staff agrees that this disclosure would be appropriate, provided the criteria discussed in § 226.8(c) are met.

Finally, you ask whether the equation in paragraph (f)(3)(ii) in Supplement I would be

the proper one to use to calculate the annual percentage rate for your mortgage and, further, what figures should be used for the terms $U_k$ and $P_j$. The staff believes that equation is the correct one to use. Note that this equation assumes that since the advance of the full loan amount occurs at the same time as the establishment of the deposit balance, the latter is equivalent to a "payment" and the two amounts offset each other. Therefore, using this equation, the first advance equals the amount of the loan less the required deposit balance and any prepaid finance charge. The principal amounts withdrawn monthly from the account are the subsequent advances. These amounts should be used for the values of $U_k$. The payments to be shown as $P_j$ in this equation will be the total payments referred to in our answer to your second question above.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(2) of the regulation, and it is limited to the facts and issues as discussed herein.

Sincerely,

Nathaniel E. Butler,

*Associate Director.*

National Manufactured Housing Finance Association,

*Washington, D.C. 20006, September 5, 1979.*

Re: Request for Public Comment on Official Staff Interpretation FC-0166

Hon. Theodore E. Allison,

*Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.*

Dear Sir: The National Manufactured Housing Finance Association hereby requests that the Board provide an opportunity for public comment on the proposed Official Staff Interpretation FC-0166 published in the Federal Register on August 8, 1979 at page 46438, and that the proposed effective date be suspended pending the comment period and issuance of a final interpretation after consideration of comments received. The proposed interpretation concerns the proper treatment of a required deposit balance in the disclosure of the amount financed, and in the computation of the annual percentage rate (APR) in a mobile home sales transaction with a required escrow of the property insurance premiums.

The National Manufactured Housing Finance Association is an organization of lenders who finance the purchase of mobile homes through the use of Federal programs, including, among others, those of the Federal Housing Administration, the Government National Mortgage Association and the Veterans Administration. Assuring that mobile homes which they finance are covered by property damage and hazard insurance for the protection of homebuyers and lenders is a matter of substantial importance to our members. We are concerned with the concept of the proposed interpretation which would hold that, although a required deposit balance is not to be considered part of the charge for credit, i.e., the finance charge (assuming proper disclosures have been made), the required deposit balance is, nevertheless, to be included in the computation of the APR. We believe that this apparent inconsistency with other APR calculations should be the subject of widespread public comment. The public should also be able to comment on whether the complicated formulas which would be applicable to the computation of the APR (as found in Supplement I to Regulation Z) in transactions such as the example described in the proposed interpretation, are workable for the average person to use at the point of sale.

If the formulas are too complicated to work out, and different charts are required for each possible permutation of the example, the use of escrows for payment of future premiums may effectively have been discouraged. Thus, the effect of the proposed interpretation may be the same as a decision that it is in the public interest to discourage the use of escrows. We believe that before such a conclusion is reached concerning mobile home purchases, the public should be given the opportunity for comment.

We point out, in this regard, that the regulations of the Federal Housing Administration, 24 CFR 203.33(a)(4) require, for home mortgages on realty, that the monthly payments include escrows for future hazard insurance premiums. We recognize that such escrows are exempted from consideration in the finance charge by the Truth in Lending Act, 15 U.S.C. 1605(e)(3), and believe consideration should be given to the question of whether required deposit balances for hazard insurance premiums ought to receive comparable treatment in mobile home lending transactions.

It is the intention of this letter only to request public comment and to suggest some of the reasons why public comment is desirable in the public interest, rather than to suggest how the interpretation might be more desirably drafted. If such an opportunity is provided, it is further the present intention of the Association to provide more definitive comment and suggestions.

Respectfully submitted,

Sanford A Witkowski,

*Secretary.*

226.8(c)—Proper treatment of required deposit balance in disclosure of amount financed and payment schedule and in computation of annual percentage rate in a mobile home transaction with required escrow of property insurance (rescinds PI letter 1136).

226.8(e)—Proper treatment of required deposit balance in disclosure of amount financed and payment schedule and in computation of annual percentage rate in a mobile home transaction with required escrow of property insurance (rescinds PI letter 1136).

July 24, 1979.

This will respond to your letters of * * * and * * *, in which you request an official staff interpretation of Regulation Z concerning the proper disclosure of property insurance escrow accounts required in connection with credit sales of mobile homes. To make sure that insurance coverage on the mobile home is maintained throughout the term of the contract, usually 15 years, the creditor requires the customer to obtain an insurance policy for the first year and to make a monthly payment of one-twelfth of the following year's premium into an escrow account. These amounts are accumulated, then disbursed once a year for the next 14 years to the insurance company of the customer's choice. The insurance premiums are not part of the finance charge since the creditor makes the disclosures called for by § 226.4(a)(6). You recognize that the insurance escrow constitutes a required deposit balance within the meaning of § 226.8(e), and ask how the disclosures relating to the escrow should be made.

First of all, the staff would stress that establishment of escrow accounts for mobile home property insurance payments does not require the special treatment accorded required deposit balances as long as customers are given the option of either escrowing the premium in advance with the creditor or undertaking to maintain proper insurance coverage on their own. It is only when the creditor requires that the premiums be escrowed in this fashion that the account must be treated as a required deposit balance for calculation and disclosure purposes.

In those cases, then, where the escrow is required, the staff believes that the amount of the required deposit balance is the sum of all the monthly deposits made into the escrow account during the term of the transaction, since the customer will lose the use of this total amount by virtue of the escrow program. You are concerned that using this figure may distort the annual percentage rate. You should note, however, that the impact of the required deposit balance on the annual percentage rate is somewhat reduced inasmuch as the annual disbursements to the insurance company of the accumulated deposits constitute advances made by the creditor on the customer's behalf and are treated as such in determining the amount financed and the annual percentage rate.

An example may be helpful in explaining the proper disclosures. Assume a 15 year (180 monthly payments) contract in which the cash price is $10,000, there is no downpayment and no prepaid finance charge, and the annual insurance premium is $300. The creditor finances the initial year's premium and each month during the first 14 years (168 months) collects, in addition to its regular monthly installment, $25 to be deposited in the insurance escrow account. (The staff believes it would be appropriate for the creditor to assume that current insurance rates will continue to apply and to use those figures unless the creditor knows or has reason to know that a different rate will apply.) To the unpaid balance of cash price of $10,000 would be added $4,500 (the sum of the 15 advances for insurance), for an unpaid balance of $14,500. The required deposit balance of $4,200 (the sum of 168 payments of $25) is then subtracted, leaving an amount financed of $10,300.

The "payments scheduled to repay the indebtedness" to be disclosed pursuant to § 226.8(b)(3) and to be used in computing the annual percentage rate must include the amounts collected for the insurance. There will, therefore, be two levels of payments, 168 payments at the higher level which includes the $25 and 12 payments at the lower level which excludes that amount. You will note that in this type of transaction, the total of payments exceeds the sum of the amount

financed and the finance charge by the amount of the required deposit balance.

Public Information Letter 1136 discussed a condominium fee that that was escrowed in advance in the same fashion as this mobile home property insurance premium. There the staff stated that the required deposit balance would be only a single year's fee. Since that position is inconsistent with that expressed in this interpretation, Letter 1136 is hereby rescinded.

You ask whether there are tables available for determining the annual percentage rate for transactions involving a required deposit balance. Since the transaction described above involves both multiple advances and unequal payments, use of tables such as those contained in Volume I of the Board's Annual Percentage Rate Tables would be inappropriate. Volume II of the tables may, however, be used for all combinations of advances and payments. You may also find tables prepared by commercial sources that can be adapted for such transactions.

This is an official staff interpretation of Regulation Z, issued pursuant to § 226.1(d)(2) of the regulation and limited to the facts and issues discussed herein.

Sincerely,

Nathaniel E. Butler,

*Associate Director.*

Board of Governors of the Federal Reserve System, September 12, 1979.

Griffith L. Garwood,

*Deputy Secretary of the Board.*

[FR Doc. 79-29012 Filed 9-18-79; 8:45 am]

BILLING CODE 6210-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### 18 CFR Part 284

[Docket No. RM79-75, Order No. 46]

### Certain Sales and Transportation of Natural Gas; Correction

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Erratum Notice Correcting Final Regulations.

**SUMMARY:** Notice is hereby given of correction to the Federal Energy Regulatory Commission's Final Regulations in Docket No. RM79-75, issued August 30, 1979, and entitled "Final Part 284 Regulations Under the Natural Gas Policy Act of 1978" 44 FR 52179.

**FOR FURTHER INFORMATION CONTACT:** Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 275-4184.

**SUPPLEMENTARY INFORMATION:**

Final Part 284 Regulations Under the Natural Gas Policy Act of 1978, Docket No. RM79-75, Erratum Notice, September 13, 1979, Order No. 46, Order Amending Part 284 and Issuing Subparts A, B, C, and E as final regulations, issued August 30, 1979.

In FR Doc. 79-27868 appearing at page 52179 in the Federal Register for September 7, 1979 the following correction should be made.

On page 52180, third column at the bottom of the page in footnote 8, the last sentence should read as follows:

8 * * * Conversely, if the interstate pipeline purchaser contracted for the transportation and if title passed to the purchaser at the point of delivery to the intermediary transporting interstate pipeline then, absent other evidence that the transaction was on behalf of an intrastate pipeline or local distribution company, the nexus would not be present and section 311(a)(1) authorization would not be available.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 79-29102 Filed 9-18-79; 8:45 am]

BILLING CODE 6450-01-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary for Community Planning and Development

### 24 CFR Part 570

[Docket No. R-79-704]

### Community Development Block Grants; Technical Amendments; Interim Rule

*Correction*

In FR Doc. 79-26593 appearing at page 50248 in the issue for Monday, August 27, 1979, under § 570.200(f)(2)(i), on page 50251, in the first column, in the 12th line, after the word "not" insert "grant exceptions for any special assessments that will"

BILLING CODE 1505-01-M

## DEPARTMENT OF AGRICULTURE

### Forest Service

### 36 CFR Part 219

### National Forest System Land and Resource Management Planning

*Correction*

In FR Doc. 79-28713, appearing as a separate Part IV at page 53927 in the issue of Monday, September 17, 1979, Appendix F, which begins on page 53992 and ends on page 53999, should be inserted above the first complete paragraph in column two on page 53976.

BILLING CODE 1505-01-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[FRL 1318-6]

### Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations; Arizona

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rulemaking.

**SUMMARY:** This notice revises the attainment status designation of the Tucson area in Arizona for photochemical oxidant (Ox). The revision is the result of EPA establishing a new National Ambient Air Quality Standard (NAAQS) for ozone of 0.12 ppm (primary and secondary) to replace the Ox standard of 0.08 ppm (44 FR 8202, February 8, 1979). the Tucson area is redesignated from nonattainment for Ox to attainment for ozone.

**DATES:** Effective September 19, 1979.

**ADDRESS:** Comments should be directed to: Arnold Den, Chief, Air Technical Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco CA 94105.

**FOR FURTHER INFORMATION CONTACT:** Morris I. Goldberg (A-4-3), Technical Analysis Section, Air Technical Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco CA 94105, Phone: (415) 556-8065.

**SUPPLEMENTARY INFORMATION:** On March 3, 1978, in accordance with Section 107 of the Clean Air Act (CAA) Amendments of 1977, EPA promulgated attainment status designations for all States in relation to the NAAQS. EPA designated the entire area of Pima County in Arizona as nonattainment for Ox. On August 15, 1978, the State requested redesignation of the boundary of the Pima nonattainment area, reducing it in size from Pima County to the Tucson area. EPA approved the boundary redesignation on March 19, 1979 (44 FR 16388).

On February 8, 1979 (44 FR 8202) EPA established a new NAAQS for ozone of 0.12 ppm to replace the Ox standard of 0.08 ppm. In addition, EPA established a statistical method of determining whether the standard has been exceeded. The national standards for

ozone are published as a revision to 40 CFR 50.9 and the statistical method as the new Appendix H, 40 CFR 50.

Because of the change in the standards, Governor Babbitt of Arizona submitted the State's redesignation of the Tucson area on May 21, 1979. The Governor recommended that the Ox nonattainment area be redesignated as an ozone attainment area. The redesignation was supported with data which indicates that the ozone air quality standards were not violated during the three year period, 1976 through 1978.

On July 6, 1979 (44 FR 39486) EPA published a notice of proposed rulemaking concerning the redesignation request. The notice proposed to approve the redesignation and provided a 30-day comment period. No comments were received.

Under Section 107 of the CAA, a state may revise its designations of attainment status and submit to EPA for promulgation the revised designations with such modifications as the Agency deems appropriate. Based upon a review of the air quality data for ozone in the Tucson area and the use of the statistical method for determining whether violations of the NAAQS had occurred, EPA believes that the NAAQS for ozone have been attained.

As a result of the redesignation, the State is not subject to the requirements of Part D of the CAA for ozone in the Tucson area.

Note.—The Environmental Protection Agency has determined that this document is not a significant regulation and does not require preparation of a regulatory analysis under Executive Order 12044.

(Secs. 107(d) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407(d) and 7801(a)))

Dated: September 10, 1979.

Douglas M. Costle,

*Administrator.*

Subpart C of Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

## Subpart C—Section 107 Attainment Status Designations

1. Section 81.303—Arizona, the attainment status designation table for Ox (published in 44 FR 16388, March 19, 1979), is revised to read as follows:

**§ 81.303 Arizona.**

* * * * *

Arizona—03

| Designated area | Does not meet primary standards | Cannot be classified or better than national standards |
|---|---|---|
| Maricopa Association of Governments Urban Planning Area. | X | |
| Tucson area | | X |
| Rest of State | | X |

* * * * *

[FR Doc. 79-28948 Filed 9-17-79; 8:45 am]

BILLING CODE 6560-01-M

## 40 CFR Parts 204, 205

[FRL 1320-3]

## Amendment to Continued Testing Hearing Provision of Noise Emission Regulations for Medium and Heavy Trucks and Portable Air Compressors

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** This notice publishes an amendment to the existing continued testing hearing provision of EPA's noise emission regulations for medium and heavy trucks and portable air compressors, which were promulgated in 1976 pursuant to the Noise Control Act of 1972. The amendment is necessary because of a decision by the United States Court of Appeals for the District of Columbia.

**EFFECTIVE DATE:** September 19, 1979.

**FOR FURTHER INFORMATION CONTACT:** Questions regarding this notice can be addressed to Timothy Dwyer, Noise Enforcement Division, U.S. Environmental Protection Agency, Washington, D.C. 20460 (202) 557-7406.

**SUPPLEMENTARY INFORMATION:** On January 14, and April 13, 1976, EPA published noise emission standards for Portable Air Compressors and Medium and Heavy Trucks, respectively, 40 CFR 204.1-204.59 and 205.1-205.59 (41 FR 2172; 41 FR 15544). Under §§ 204.57-8 and 205.57-8 of the regulations, the Administrator may require that an affected manufacturer test any or all products of a category, configuration or subgroup thereof which fails a selective enforcement audit before distributing them in commerce. Only those products which comply with the applicable standard may be distributed. These sections presently allow an affected manufacturer to request a hearing on whether the audit was properly conducted and whether the criteria for batch sequence rejection were met.

This regulation provision limiting the scope of a hearing on a continued testing order, 40 CFR 204.57-8(c), was challenged in the case of *Atlas Copco, Inc. v. Environmental Protection Agency*, (D.C. Cir. No. 76-1354). In *Atlas Copco*, the United States Court of Appeals for the District of Columbia held that § 204.57-8(c) was invalid since the limitations on the issues appropriate for a hearing "unduly and unreasonably" restricted the hearing provided for by the regulation. The court said that, "Reasonableness demands that evidence relevant to the scope of any order that may issue upon such a failure (of a SEA) be considered by the Agency." The court remanded the litigation to EPA to take corrective measures.

EPA acknowledges that the *Atlas Copco* decision invalidates § 204.57-8(c). Since § 205.57-8(c) is identical, EPA is promulgating an amendment to both § 204.57-8(c) and § 205.57-8(c) which expands the scope of the hearing on a continued testing order to include the issue of the appropriateness or the scope of a continued testing order.

The Administrator finds good cause for making this rulemaking effective immediately upon the date of promulgation without prior proposal. The Administrator finds that a pre-promulgation public comment period is impracticable and contrary to the public interest within the meaning of 5 U.S.C. 553(b)(B), because immediate action is necessary to bring the EPA regulations within the decision of *Atlas Copco*.

To accomplish the above stated purposes, 40 CFR 204.57-8(c) and 205.57-8(c) are amended as set forth below.

Dated: September 10, 1979.

Douglas M. Costle,

*Administrator.*

## PART 204—NOISE EMISSION STANDARDS FOR CONSTRUCTION EQUIPMENT

A. 40 CFR § 204.57-8(c) is revised to read as follows:

**§ 204.57-8 Continued testing.**

* * * * *

(c) The manufacturer may request a hearing on the issues of whether the selective enforcement audit was conducted properly; whether the criteria for batch sequence rejection in § 204.57-7 have been met; and, the appropriateness or scope of a continued testing order. In the event that a hearing is requested, the hearing shall begin no

later than 15 days after the date on which the Administrator received the hearing request. Neither the request for a hearing nor the fact that a hearing is in progress shall affect the responsibility of the manufacturer to commence and continue testing required by the Administrator pursuant to paragraph (a) of this section.

## PART 205—TRANSPORTATION EQUIPMENT NOISE EMISSION CONTROLS

B. 40 CFR 205.57–8(c) is revised to read as follows:

**§ 205.57–8 Continued testing.**

* * * * *

(c) The manufacturer may request a hearing on the issues of whether the selective enforcement audit was conducted properly; whether the criteria for batch sequence rejection in § 204.57–7 have been met; and, the appropriateness or scope of a continued testing order. In the event that a hearing is requested, the hearing shall begin no later than 15 days after the date on which the Administrator received the hearing request. Neither the request for a hearing nor the fact that a hearing is in progress shall affect the reponsibility of the manufacturer to commence and continue testing required by the Administrator pursuant to paragraph (a) of this section.

(Sec. 6, 13, Pub. L. 92–574; (42 U.S.C. 4912))

[FR Doc. 79–29025 Filed 9–18–79; 8:45 am]
BILLING CODE 6560–01–M

---

## 40 CFR Part 761

**[FRL 1325–1; OTS/62002(PCB/RR–2)]**

## Polychlorinated Biphenyls (PCB's); Disposal Requirements

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Immediately Effective Amendment to Final Rule Applicable to Chemical Waste landfill in Sedgwick County, Kansas.

**SUMMARY:** The final PCB regulation (44 FR 31514, May 31, 1979) requires that thirty days written notice be provided to applicable state and local jurisdictions before a PCB chemical waste landfill is first used for disposal of PCBs. The proposed amendment, which is being made immediately effective, allows the Regional Administrator to shorten the notice period to five days to allow expedited approval of one chemical waste landfill. The amendment is applicable solely to one facility in Sedgwick County, Kansas. Although the amendment is immediately effective, the Regional Administrator will not exercise her discretion under the amendment until an informal hearing is held on the amendment in Sedgwick County on September 17, 1979.

**DATES:** Written comments are being received by the Regional Office until the close of business on September 19, 1979. Pursuant to Section 6(d)(2)(B) of the Toxic Substances Control Act (TSCA), an informal hearing will be held by the EPA Regional Office in Sedgwick County, Kansas on September 17, 1979. Persons are being allowed to appear at the hearing without prior notification to the Regional Office. This notice is being published in a newspaper of general circulation in Sedgwick County.

**ADDRESSES:** Send comments to Dr. Kathleen Q. Camin, Regional Administrator, U.S. Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106, Attn: Sedgwick County PCB Chemical Waste Landfill Application. Comments may also be submitted at the hearing on September 17, 1979. The hearing will be held on September 17, 1979 at 7:30 pm at the City Commission Chambers, City Hall, 455 North Main Street, Wichita, Kansas.

**FOR FURTHER INFORMATION CONTACT:** David Wagoner, Director, Air and Hazardous Materials Division, U.S. Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106. Information may also be obtained by calling Mr. Wagoner at 816–374–5971.

**SUPPLEMENTARY INFORMATION:** On May 31, 1979, EPA published its final regulation for PCBs (44 FR 31514) pursuant to Section 6(e) of TSCA. The regulation establishes requirements for disposal facilities for PCBs. See § 761.10 (44 FR at 31545–48) and Annexes I and II (44 FR at 31551–55). Section 761.10(f)(1)(i) (44 FR at 31547) requires the operator of a disposal facility to give written notice to applicable state and local jurisdictions "at least thirty (30) days before a facility is first used for disposal of PCBs required by these regulations . . ."

EPA has been engaged in the approval of PCB disposal facilities since 1978 under the present regulation and its predecessor (43 FR 7150, February 17, 1978). It has become apparent that the previously-mentioned thirty day notice requirement should be reduced in the case of the pending application of a chemical waste landfill in Sedgwick County, Kansas. Approximately one hundred head of cattle in the State of Kansas have been found to be contaminated with PCBs and have been condemned by the State. However, because of the PCB levels in the cattle when they are destroyed, they can only be disposed of in a chemical waste landfill approved for PCB disposal under EPA's regulations.[1] The only close landfill that would otherwise be suitable for such disposal has not yet been approved by EPA and under the present regulations cannot be approved until the county has received thirty days notice. If the State must wait 30 days to dispose of the cattle, serious injury to health or the environment may occur. Some of the condemned cattle have already died. Additional cattle may die. If these carcasses of the PCB-contaminated cattle are not properly disposed of, the carcasses may become a source of disease. In addition, the live PCB-contaminated cattle are producing waste which may also contain PCBs. Accordingly, EPA has determined that permitting the Regional Administrator to reduce the thirty day notice requirement to five days in the previously-discussed situation meets the criteria of Section 6(d)(2)(A)(i) of TSCA. A thirty day delay in disposal of the PCB-contaiminated cattle would cause an "unreasonable risk of serious or widespread injury to health or the environment" (Section 6(d)(2)(A)(i)(I)). Similarly, the decision to make the rule effective immediately for the Sedgwick County facility "is necessary to protect the public interest . . . " (Section 6(d)(2)(A)(i)(II)) by avoiding delay in disposal.[2] EPA did not anticipate a situation such as this when it included the thirty day notice provision.

Although the amendment is effective immediately, the Regional Administrator will not exercise her discretion to shorten the notice period until after completion of the informal hearing on the amendment in Sedgwick County on September 17, 1979 and the close of the comment period on September 19, 1979. If after the hearing and reviewing any written comments, EPA believes this amendment is inappropriate, the rule will be revoked.

EPA plans to grant interim approval to the Sedgwick County facility solely for disposal of the PCB-contaminated animals, waste and related contaminated items. Subsequently, EPA plans to hold a public comment period

---

[1] The PCB-Contaminated cattle are subject to TSCA because they are no longer being held "for use as a food . . ." under Section 3(2)(B)(vi).

[2] Written notice of the pending PCB chemical waste landfill application in Sedgwick County is deemed to have begun on the date when the written notice was delivered to the Board of Commissioners by the applicant for the PCB chemical waste landfill.

in the EPA Region for the full approval of the Sedgwick County facility.

September 14, 1979.

Steven D. Jellinek,

*Assistant Administrator for Toxic Substances.*

Pursuant to the Toxic Substances Control Act, 15 U.S.C. 2605 and pursuant to authority delegated in the Background section of the preamble to the Final PCB regulation (44 FR 31514, May 31, 1979), 40 CFR Part 761 is amended by adding a new (f)(1)(iii) to read as follows:

**§ 761.10 disposal requirements.**

* * * * *

(f)(1) . . .

(iii) The Regional Administrator may reduce the notice period required by § 761.10(f)(1)(i) from thirty days to a period of no less than five days in order to expedite interim approval of the chemical waste landfill located in Sedgwick County, Kansas.

[FR Doc. 79-29112 Filed 9-18-79; 8:45 am]

BILLING CODE 6560-01-M

---

**40 CFR Part 762**

**[FRL 1300-2; OTS-6200]**

## Fully Halogenated Chlorofluoroalkanes; Toxic Substances Control Act; Inkless Fingerprinting Systems

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is granting a two year exemption from its chlorofluorocarbon rule for inkless fingerprinting systems.

**DATES:** This amendment becomes effective September 19, 1979.

**ADDRESS:** The offical record of rulemaking is located in room 447, WSME, EPA Headquarters, 401 M Street, S.W., Washington, D.C. 20460. The record is available for viewing and copying from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays. Joni Repasch is the Record and Hearing Clerk. Telephone: (202) 755-5633.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Ritch, Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Toll Free Telephone Number: 800-424-9065; in the Washington, D.C. area call 554-1404.

For Technical Information: Call the toll free number and have Jim Silverman return your call.

**SUPPLEMENTARY INFORMATION:** On March 17, 1978, EPA promulgated a rule which prohibits the manufacture, processing, and distribution of fully halogenated chlorofluoroalkanes (chlorofluorocarbons) for nonessential aerosol propellant uses. (40 CFR 762; 43 FR 11318). The manufacturing prohibition became effective on October 15, 1978. The processing and distribution prohibitions became effective on December 15, 1978. On May 31, 1979 (44 FR 31238) EPA proposed amending the rule to grant a temporary essential use exemption for inkless fingerprinting systems using chlorofluorocarbon propellants. This action makes the amendment final.

Inkless fingerprinting systems provide a quick, easy, inexpensive, and clean means for fingerprinting. They provide an advantage over systems requiring printers ink because they do not require time for people to clean off the ink. In addition, one study showed that use of an inkless system significantly reduces the number of fingerprints which are rejected because of poor quality. This lower rejection rate produces a cost savings to the user. Inkless fingerprinting systems are popular with organizations which fingerprint a large number of personnel for identification purposes. The Department of Defense considers inkless fingerprinting systems to be valuable and has recommended that EPA grant a temporary exemption.

Inkless fingerprinting systems have only recently come on the market and have been regarded as a major technological innovation in the fingerprinting field. Since EPA announced its intent to regulate chlorofluorocarbons, the firm which pioneered this product, Dactek International, Inc., has experimented with using hydrocarbon, carbon dioxide, and nitrous oxide propellants and with using a nonaerosol pump, but none of these methods have yet provided an acceptable substitute.

In keeping with the requirement of Section 6(c) of TSCA to consider the impact on technological innovation of any rules promulgated, and because of EPA's concern that Dactek's innovation not be lost, EPA is granting an exemption which will last approximately two years. The Agency anticipates that during that two year period Dactek will be able to develop an inkless fingerprinting system that does not utilize a chlorofluorocarbon aerosol propellant.

To the best of EPA's knowledge, Dactek is the only manufacturer of these systems. Because Dactek uses less than 3,000 pounds of chlorofluorocarbons per year, the exemption will not have a significant adverse impact on the environment.

EPA did not receive any comments on the proposed exemption. The wording of the final exemption is exactly as it was proposed. The exemption becomes effective immediately pursuant to the authority of Section 553(d) of the Administrative Procedure Act, 5 U.S.C. Section 553, which allows rules granting an exemption to become effective less than 30 days after promulgation.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This final rule has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

The rulemaking record for this action consists of the rulemaking record for EPA's chlorofluorocarbon rule (40 CFR 762; 43 FR 11318, March 17, 1978) and the following documents:

Federal Register Notices Pertaining to this Rule:

44 FR 31238, May 31, 1979. USEPA. "Fully Halogenated Chlorofluoroalkanes Proposed Regulation." For Inkless Fingerprinting Systems. Docket No. OTS-066004-CFC/IFS.

*Company File*

Dactek International, Inc.

Exemption request w/12 enclosures (09/26/78).

Additional data on exemption request (09/29/78).

Communication to Mr. George Siebert, Office of the Secretary of Defense, ODASD-EES, from Louis B. Meadows, Pres., Dactek International, Inc. (09/26/79).

Communication to James D. Silverman, OTS, USEPA, from Lester Fox, Dir., Defense Material Specifications & Standards Office, Research and Engineering, Office of the Secretary of Defense (12/05/78).

Communication to Robert E. Kent, Asst. Dir., Identification Division, FBI, from Cynthia C. Kelly, Dir. Control Action Division, OTS, USEPA (11/16/78).

(Response from Robert E. Kent, Asst. Dir., Identification Division, FBI, to Cynthia C. Kelly, Dir. Control Action Division, OTS, USEPA (12/08/78).

Communication to Steven D. Jellinek, AA, OTS, USEPA, from the Honorable James C. Corman, U.S. House of Representatives (01/04/79).

(Response from Steven D. Jellinek, AA, OTS, USEPA, to the Honorable James C. Corman, U.S. House of Representatives (04/20/79).

Communication to USEPA, from the Honorable S. I. Hayakawa, U.S. Senate (01/30/79).

(Response from Steven D. Jellinek, AA, OTS, USEPA, to the Honorable S. I. Hayakawa, U.S. Senate (04/20/79).

Communication from William J. Harrington, Dir. for Legislative and U.S. Government

Affairs, Dactek International Inc. to Steven D. Jellinek, AA, OTS, USEPA, (02/06/79).

Communication to USEPA, from the Honorable Alan Cranston, U.S. Senate (02/13/79).

(Response from Steven D. Jellinek, AA, OTS, USEPA, to the Honorable Alan Cranston, U.S. Senate (04/20/79).

Communication to Steven D. Jellinek, AA, OTS, USEPA, from William J. Harrington, Dir. of U.S. Government Affairs, Dactek International Inc. (03/05/79).

(Toxic Substances Control Act, Section 6, Pub. L. 94-469, 90 Stat. 2020 (15 USC 2605).)

Dated: September 14, 1979.

Douglas M. Costle,

*Administrator.*

40 CFR Part 762 is amended as follows:

## PART 762—FULLY HALOGENATED CHLOROFLUOROALKANES

By adding § 762.11(a)(3) and § 762.11(b)(3) as follows:

**§ 762.11 Manufacture: prohibitions, exemptions and certification requirements.**

(a) * * *

(3) for exempted uses listed in § 762.22

(b) * * *

(3) for exempted uses listed in § 762.22

By adding § 762.12(a)(3) and § 762.12(b)(3) as follows:

**§ 762.12 Processing: prohibitions and exemptions.**

(a) * * *

(3) for exempted uses listed in § 762.22

(b) * * *

(3) for exempted uses listed in § 762.22

By adding § 762.13(c) as follows:

**§ 762.13 Distribution in commerce: prohibitions and exemptions.**

* * * * *

(c) for exempted uses listed in § 762.22

By adding § 762.22 as follows:

**§ 762.22 Special Exemptions.**

(a) Inkless fingerprinting systems until August 1, 1981.

[FR Doc. 79-29182 Filed 9-18-79; 8:45 am]

BILLING CODE 6560-01-M

---

**40 CFR Part 762**

**[FRL-1300-3; OTS—066003A]**

## Toxic Substances; Fully Halogenated Chlorofluoroalkanes

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** On May 11, 1979 the Environmental Protection Agency proposed an amendment to its chlorofluorocarbon rule (40 CFR 762; 43 FR 11318, March 17, 1978) in order to grant relief to manufacturers of pyrethrin pesticides that contain chlorofluorocarbon aerosol propellants. This action makes the amendment final. No substantive changes were made between proposal and the final rule; the format of the rule was changed in order to place it in a different CFR section.

**EFFECTIVE DATE:** The amendment becomes effective September 19, 1979.

**ADDRESS:** The official record of rulemaking is located in room 447, WSME, EPA Headquarters, 401 M Street, S.W., Washington, D.C. 20460. The record is available for viewing and copying from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays. Joni T. Repasch is the Record and Hearing Clerk. Her telephone number is 202-755-5633.

**FOR FURTHER INFORMATION AND COPIES OF RULEMAKING RECORD CONTACT:** Mr. John Ritch, director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Toll Free Telephone Number: 800-424-9065; in the Washington, D.C. area call 554-1404.

For Technical Information: Call the toll free number and have Jim Silverman return your call.

**SUPPLEMENTARY INFORMATION:** On March 17, 1978, EPA promulgated a rule prohibiting processing of fully halogenated chlorofluoroalkanes (chlorofluorocarbons) for nonessential aerosol propellant uses (40 CFR 762; 43 FR 11318, March 17, 1978). The processing prohibition became effective on December 15, 1978.

Several companies that produce pesticides have requested an exemption from the processing prohibition on the grounds that circumstances beyond their control made compliance with the December 15, 1978 date a severe economic hardship. During 1977 and early 1978 these companies ordered thousands of aerosol cans which they expected to fill with the pyrethrin/chlorofluorocarbon formulation by December 15, 1978.

[Note.—Filling the aerosol cans with a pyrethrin/chlorofluorocarbon formulation is equivalent to processing of chlorofluorocarbons within the meaning of 40 CFR 762.]

All of the companies planned to convert to a different propellant or delivery system by December 15, 1978.

Because of a severe drought in Africa, imports of pyrethrin dropped drastically, and the companies were unable to fill all of their aerosol cans by December 15, 1978. It would be prohibitively expensive to modify these cans to use another propellant or to relabel them to use a different product. Therefore, these companies have asked EPA for permission to fill these cans with a pyrethrin/chlorofluorocarbon formulation, so as to be able to use their remaining inventory of cans which were ordered months, and sometimes more than a year, before the effective date of the processing prohibition.

In evaluating this special request, EPA considered both the economic impact on the affected businesses and the impact on the environment that would result if the request were granted. The Agency determined that the environmental harm from granting a special exemption would be tolerable. Therefore, on May 11, 1979, EPA proposed granting a special exemption to enable the affected pesticide companies to avoid the heavy financial loss that would occur if they could not use their existing inventories. This action makes the exemption final.

This exemption differs from essential use exemptions. An essential use exemption is open-ended; a processor may continue to fill aerosol cans for the exempted uses until EPA amends the rule. This exemption has a built-in limitation. Only a specifically designated group of aerosol cans may be filled under this exemption. Once those aerosol cans are filled, the exemption no longer has any significance.

Based on the correspondence submitted by pesticide companies seeking an exemption and on conversations with a pyrethrin importer EPA has determined that pesticide companies should have been aware of the pyrethrin shortage by June 30, 1978. Therefore, the exemption does not permit filling of aerosol cans ordered after that date.

EPA did not receive any comments opposing final promulgation of this exemption. Two companies wrote to support the exemption, including one that EPA was not aware of at proposal. Two other pesticide companies notified EPA that they were no longer interested in the exemption.

This exemption becomes effective immediately pursuant to the authority of section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553, which allows rules granting an exemption to become effective less than 30 days after promulgation.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and

determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

The rulemaking record for this action consists of the rulemaking record for EPA's chlorofluorocarbon rule (40 CFR 762; 43 FR 11318, March 17, 1978) and the following documents:

Federal Register Notices Pertaining to this Rule: 44 FR 27702, May 11, 1979. USEPA. "Fully Halogenated Chlorofluoroalkanes Toxic Substances Control Act." Proposed Rule: Pyrethrin Pesticides. Docket # OTS-066003-CFC/PPE.

**Company File**

| | |
|---|---|
| The C. B. Dolge Co.: | |
| Exemption Request | 06-08-79 |
| Communication re: exemption | 07-09-79 |
| Chemical & Equipment Sales & Service Inc. (CESSCO): | |
| Exemption Request | 11-21-78 |
| With Enclosures: | |
| (1) Copy of letter to Jim Stone | 10-02-78 |
| (2) Letter from Prentiss Drug | 11-01-78 and |
| Chemical Co., Inc.: | |
| (3) McLaughlin Gormely King Co | 10-13-79 |
| Claire Manufacturing Co.: | |
| Exemption Request | 01-08-79 |
| Withdrawal of Exemption Request | 06-06-79 |
| Federal Chemical Co., Inc. (Arab): | |
| Exemption Request | 01-03-79 |
| McLaughlin Gormely King Co.: | |
| Exemption Request | 10-16-78 |
| Communication | 10-16-78 |
| Exemption (duplicate letter of 10/16/78) | 12-18-78 |
| Communication | 05-30-78 |
| 707 Company: | |
| Exemption Request | 10-30-78 |
| Communication | 12-05-78 |
| Sterling Drug Inc. (including d-Con Co. Inc., a subsidiary): | |
| Exemption Request | 10-19-78 |
| Main Comment | 06-06-79 |
| Addendum to Main Comment | 06-25-79 |

(Toxic Substances Control Act. Secton 6, Pub. L. 94-469, 90 Stat. 2020 (15 USC 2605))

Dated: September 14, 1979.

Douglas M. Costle,

*Administrator.*

40 CFR Part 762 is amended by adding § 762.22(b) to read as follows:

**§ 762.22 Special exemptions.**

* * * * *

(b) Exemption for Producers of Pyrethrin Pesticide Formulations

(1) Producers of pyrethrin pesticide formulations are exempt from § 762.12 for the purpose of processing fully halogenated chlorofluoroalkane aerosol propellants into pyrethrin aerosol propellant articles (containers) if the containers were ordered before June 30, 1978. This exemption is conditional upon notifying EPA before the chlorofluoroalkanes are processed of:

(i) The number of aerosol propellant article containers to be filled,

(ii) The date the aerosol containers were ordered from a supplier,

(iii) Any serial numbers that can be used to identify these containers, and

(iv) The quantity of fully halogenated chlorofluoroalkanes needed to fill the containers.

(2) The information specified in paragraph (1) must be sent to the Pesticides and Toxic Substances Enforcement Division (EN-342), Office of Enforcement, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

[FR Doc. 79-29099 Filed 9-18-79; 8:45 am]

BILLING CODE 6560-01-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### 43 CFR Public Land Order 5680

[I-13259]

### Idaho; Partial Revocation of Phosphate Reserve Nos. 2, 13, 19 and 31

*Correction*

In FR Doc. 79-28007 appearing at page 52686 in the issue for Monday, September 10 1979, third column, the seventeenth line from the bottom should read as follows: "Sec. 23, N½NE¼, SE¼NE¼;"

BILLING CODE 1505-01-M

## Office of the Secretary

### 43 CFR Part 17

### Nondiscrimination in Federally-Assisted Programs of the Department of the Interior—Effectuation of Title VI of the Civil Rights Act of 1964; Correction

**AGENCY:** Department of the Interior.

**ACTION:** Correction.

**SUMMARY:** This document amends an incorrect reference in 43 CFR Part 17.9(h)(3) which refers to a non-existent Part. The reference to "Part 17a" should be amended to read "Subpart I of Part 4."

**DATE:** This correction is effective on September 19, 1979.

**SUPPLEMENTARY INFORMATION:** The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The primary author of this document is Lois W. Paull, Office of Administrative Services, telephone 202-343-6191.

September 12, 1979.

William L. Kendig,

*Acting Deputy Assistant Secretary of the Interior.*

**§ 17.9 [Amended]**

Pursuant to the authority of Sec. 602, 78 Stat. 252; 42 U.S.C. 2000d-1; and Appendix A to 43 CFR Part 17, the reference to Part 17a in 43 CFR 17.9(h)(3) is amended to read Subpart I of Part 4.

[FR Doc. 79-29100 Filed 9-18-79; 8:45 am]

BILLING CODE 4310-10-M

## Fish and Wildlife Service

### 50 CFR Part 33

### Opening of North Platte National Wildlife Refuge, Nebraska, to Sport Fishing

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Special regulation.

**SUMMARY:** The Director has determined that the opening to sport fishing of North Platte National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

**DATES:** January 15, 1980 through September 30, 1980.

**FOR FURTHER INFORMATION CONTACT:** C. Fred Zeillemaker, Refuge Manager, Crescent Lake NWR, Ellsworth, NE 69340. Telephone 308-762-4893.

**SUPPLEMENTARY INFORMATION:**

**§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.**

Sport fishing is permitted on the North Platte National Wildlife Refuge, Nebraska, on all areas subject to signing placed by the Nebraska Game and Parks Commission and/or the U.S. Bureau of Reclamation. The open area is comprised of approximately 3,300 acres. Sport fishing shall be in accordance with all applicable State regulations subject to the following additional conditions:

1. Fishing will be allowed January 15 through September 30 only.

2. Boats, motorboats and other floating craft may be used during the fishing season only.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the

extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the North Platte National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife's Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at anytime.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: July 5, 1979.

C. Fred Zeillemaker,

*Refuge Manager.*

[FR Doc. 79–29066 Filed 9–18–79; 8:45 am]

BILLING CODE 4310–55–M

## 50 CFR Part 33

## Opening of Crescent Lake National Wildlife Refuge, Nebraska, to Sport Fishing

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Special regulation.

**SUMMARY:** The Director has determined that the opening to sport fishing of Crescent Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

**DATES:** January 1, 1980 through April 15 and July 16 through December 31,1980.

**FOR FURTHER INFORMATION CONTACT:** C. Fred Zeillemaker, Refuge Manager, Crescent Lake NWR, Ellsworth, NE 69340. Telephone 308–762–4893.

**SUPPLEMENTARY INFORMATION:**

**§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.**

Sport fishing is permitted on the Crescent Lake National Wildlife Refuge, Nebraska, only on Island and Hackberry Lakes designated by signs as being open to fishing.

These areas, comprising approximately 1086 acres (Hackberry Lake 375, Island Lake 711), are delineated on maps available at refuge headquarters (Refuge Manager, Crescent Lake NWR, Ellsworth, NE 69340). Sport fishing shall be in accordance with all applicable State regulations subject to the following additional conditions:

1. Fishing and boating will be allowed January 1 through April 15 and July 16 to December 31 only.

2. Boats propelled with poles, oars, paddles or electric motors only may be used.

3. The use or possession of live or dead minnows or whole fish for bait and the possession of any seine or net for capturing live minnows or fish are prohibited. Parts of dead fish may be used as bait.

4. Overnight camping is prohibited.

5. Open fires are prohibited.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Crescent Lake National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at anytime.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: July 5, 1979.

C. Fred Zeillemaker,

*Refuge Manager.*

[FR Doc. 79–29067 Filed 9–18–79; 8:45 am]

BILLING CODE 4310–55–M

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 611

## Squid Fisheries of the Northwestern Atlantic; Amendment to Foreign Fishing Regulations

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

**ACTION:** Final Regulations.

**SUMMARY:** This amendment modifies the amount of short-finned squid *(Illex)* that may be harvested by foreign fishing vessels during 1979. The total allowable level of foreign fishing for *Illex* is increased by 4,000 metric tons (mt), from 20,000 mt to 24,000 mt.

**DATE:** Effective September 14, 1979.

**FOR FURTHER INFORMATION CONTACT:** Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

**SUPPLEMENTARY INFORMATION:** The Preliminary Fishery Management Plan for Squid Fisheries of the Northwestern Atlantic (PMP) was published on February 16, 1977, and subsequently amended for 1978 and 1979. An amendment providing for an in-season reduction in the estimated U.S. harvesting capacity for *Illex* of 4,000 mt and an in-season increase in the amount of *Illex* available to the foreign fishery of 4,000 mt was approved by the Assistant Administrator for Fisheries, NOAA, on August 10, 1979. The amendment to the PMP was published on August 30, 1979 (44 FR 50879) with regulations proposed to implement the amendment. Public comment on the proposed regulations was originally invited until September 26, 1979. However, the PMP provides for a 15-day period for public comment on such in-season reallocations. Therefore, the date for receipt of public comments was revised to September 13, 1979 (44 FR 53094).

One public comment, from the Japan Deep Sea Trawlers Association, was

received. The comment requested that 4,000 mt be reallocated to foreign countries, as is required by the Fishery Conservation and Management Act of 1976, by the Department of State. In response to the comment, the amendment to the regulations is effective September 14, 1979, to enable the reallocation to take place on the earliest possible date. Also in response to the comment, the possibility of another reallocation of *Illex* will be considered at a later date.

The Mid-Atlantic Fishery Management Council (Council) prepared a fishery management plan for the Atlantic squid fishery that was approved by the Assistant Administrator. The plan and proposed regulations published on June 26, 1979 [44 FR 37252] contain procedures for reallocation of Atlantic squids during the fishing year [April 1 to March 31] as in-season adjustments. When the Council's plan is implemented by promulgation of final regulations, a review of domestic harvest of Atlantic squids will be initiated to carry out the Council's intent regarding in-season reallocation.

The Assistant Administrator has determined that this action does not require preparation of a regulatory analysis, nor does it meet the criteria of significance established by Executive Order 12044. An Environmental Impact Statement on the squid fishery PMP has been prepared and is on file with the Environmental Protection Agency.

Signed in Washington, D.C., this 14th day of September, 1979.

Winfred H. Meibohm,

*Executive Director, National Marine Fisheries Service.*

[16 U.S.C. 1801 *et seq.*]

50 CFR Part 611 is amended as follows:

**§ 611.20 [Amended]**

1. In Table I of § 611.20[c], under the column "TALFF," strike the amount "20,000" for squid, short-finned and substitute "24,000."

[FR Doc. 79-29086 Filed 9-18-79; 8:45 am]

BILLING CODE 3510-22-M

# Proposed Rules

Federal Register
Vol. 44, No. 183
Wednesday, September 19, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### [7 CFR Part 929]

## Handling of Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; Proposed Amendment of Rules and Regulations

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The proposed action would modify the procedures governing the allocation of base quantity to cranberry producers from the reserve established under the order. The proposal is designed to simplify the procedure for computing each existing producer's share of reserve base quantity. The proposal was submitted by the Cranberry Marketing Committee established under the order.

**DATE:** Comments must be received not later than October 4, 1979.

**ADDRESS:** Comments should be filed in duplicate with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:** Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, telephone (202) 447-5975.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the Department is considering proposed amendment, as hereinafter set forth, of the rules and regulations (Subpart—Rules and Regulations; 7 CFR 929.101 *et seq.*) currently in effect pursuant to the applicable provisions of the amended marketing agreement and Order No. 929, as amended (7 CFR Part 929). The order regulates the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The proposal to amend said rules and regulations was recommended by the Cranberry Marketing Committee established under the order as the agency to administer the terms and provisions thereof.

Section 929.153 of the regulations established under the order prescribes procedures governing the allocation of reserve base quantity to cranberry producers. The establishment of an annual base quantity reserve equal to two percent of the aggregate base quantities of cranberry producers is mandated by § 929.48(b) of the order. This reserve quantity is to be allocated 75 percent to existing producers and 25 percent to new producers.

The proposed modification of § 929.153 would provide that the reserve base quantity share of each eligible existing producer applicant shall be allocated on the basis of the difference between average annual sales of cranberries during a specified period from all the producer's acreage and the producer's present base quantity. Currently, the base quantity computed for an existing producer is the sum of base quantity shares determined on the basis of sales of cranberries from established cranberry acreage together with sales of cranberries from new acreage. The proposal recognizes that new cranberry acreage can be planted in close proximity to established cranberry acreage, rendering identification of cranberries produced and sold from new acreage impractical. The proposal is designed to facilitate allocation of reserve base quantity to cranberry producers on a uniform basis.

The proposal would distinguish between applicants with at least four years of sales and applicants with less than four years of sales in computing each eligible applicant's base quantity share. This proposed change recognizes that an existing grower applicant could have less than four years of sales such as a grower who has recently acquired cranberry acreage.

The proposal would make minor revisions in the definition of "existing grower" and "new grower" to clarify the basis for eligibility in each grower category. One proposed change would require a determination by the committee that the person applying under the "new grower" classification has made firm and substantial commitments for the production of cranberries. This proposal is designed to enable the committee to evaluate an applicant's intention to produce cranberries and eligibility for base quantity from the portion of the reserve set aside for new growers. The proposal would also clarify that base quantity issued to new growers is conditional on the grower's ability to produce and sell cranberries and is not transferable to other growers until such condition is fulfilled.

This proposal has been reviewed under USDA criteria for implementing Executive Order 12044. It is being published with less than a 60-day comment period because of insufficient time between the date when information became available upon which this proposed amendment is based and the effective date necessary to effectuate the declared policy of the act. A determination has been made that this action should not be classified "significant". A Draft Impact Analysis is available from Malvin E. McGaha, (202) 447-5975.

The proposal is to amend § 929.153 by revising paragraphs (b) and (c) to read as follows:

**§ 929.153 Base quantity reserve.**

(a) * * *

(b) *Application.* Each grower who wishes to be considered for base quantity from the reserve shall file an application with the committee on a form provided by the committee not later than February 1 of the crop year. Such application shall identify the grower as either an existing grower (an "existing grower" shall mean any person who is engaged in producing cranberries on established cranberry acreage or now holds a base quantity certificate) or a new grower (a "new grower" shall mean any person who does not hold a base quantity certificate nor any interest in a base quantity certificate, financial or otherwise and shall include any grower who in the judgement of the committee has made firm and substantial commitments for the production of cranberries or any grower whose acreage did not previously qualify as established cranberry

acreage). The application shall include the following information:

(1) Location of acreage,

(2) Acreage planted,

(3) Production and sales of cranberries for the preceding six-year period,

(4) Prospective production and such other information as may be required by the committee, including such information as may be deemed necessary for the committee to determine whether applicants who apply on the basis of firm and substantial commitments to produce cranberries are qualified.

(c) *Disposition.* Following the closing date for filing applications, a meeting or meetings of the committee shall be held for the purpose of reviewing applications, if any, and making a determination on each request. Such meeting or meetings shall be scheduled to begin no later than March 1 of the crop year.

(1) *Existing grower.* There shall be set aside for allocation to existing growers 75 percent of the amount determined under paragraph (a) of this section. The committee shall compute a base quantity share for each eligible applicant as follows:

(i) *Applicants With At Least Four Years Sales.* A share of reserve base quantity for each applicant who has at least four years sales shall be computed by the committee by subtracting the applicant's present base quantity from such applicant's average annual sales (from all of such applicant's acreage) for the four years, within the immediately preceding six-year period, in which such applicant's greatest sales were made.

(ii) *Applicants With Less Than Four Years Sales.* A share of reserve base quantity for each applicant who has less than four years of sales shall be computed by the committee by subtracting the applicant's present base quantity, if any, from the applicant's average annual sales (from all such applicant's acreage) for the years in which such sales were made.

(iii) If the total amount computed for all existing grower applicants exceeds the amount of reserve base quantity available, then each applicant's share shall be adjusted by multiplying each such share by a factor obtained by dividing the amount of reserve base quantity available by the total amount computed for all existing grower applicants.

(2) *New grower.* There shall be set aside for allocation to new growers 25 percent of the amount determined under paragraph (a) of this section. Base quantity share shall be determined by multiplying the grower's cranberry acreage by the State average base quantity per acre. If the total amount computed for all new grower applicants exceeds the amount of reserve base quantity available, then each applicant's share shall be adjusted by multiplying each such share by a factor obtained by dividing the amount of reserve base quantity available by the total amount computed for all new grower applicants. Base quantity shall be issued to each approved applicant from such applicant's base quantity share in an amount equal to the estimated production for that crop year. No base quantity share based on estimated production or allotment based on such share shall be transferred to another grower. * * *

* * * * *

Dated: September 14, 1979.

D. S. Kuryloski,

*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc. 79-29009 Filed 9-18-79; 8:45 am]

BILLING CODE 3410-02-M

---

[7 CFR Part 1049]

[Docket No. AO-319-A30]

## Milk in the Indiana Area; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and To Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends changes in the present order provisions based on proposals by three cooperative associations that were considered at a public hearing held July 24, 1979. The proposed amendments would increase the funding rate of the Advertising and Promotion program of the order and would tie such rate to the level of the blend price to producers. The amendments are necessary to reflect current marketing conditions and to insure orderly marketing in the area.

DATE: Comments are due on or before October 4, 1979.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 202-447-7311.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Hearing: Issued July 6, 1979, published July 11, 1979 (44 FR 40520).

### Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Indiana marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., 20250, by October 4, 1979. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Indianapolis, Indiana, on July 24, 1979, pursuant to notice thereof which was issued July 6, 1979 (44 FR 40520).

The material issues on the record of the hearing relate to the funding rate of the Advertising and Promotion program of the order.

### Findings and Conclusions

The following findings and conclusions on the material issues are based on evidenced presented at the hearing and the record thereof:

*Funding rate for the Advertising and Promotion Program.* The funding rate for the Advertising and Promotion Program should be modified by changing the present 5-cent per hundredweight rate to a rate determined yearly by multiplying the simple average of the monthly "weighted average prices" applicable during the last quarter of the preceding calendar year by 0.75 percent. The new rate would become effective on April 1 of each year.

Under the revised funding formula, a simple average of the "weighted average prices" for the last quarter of the calendar year would be computed by the market administrator as soon as possible after the end of that year. This

average price would be multiplied by 0.75 percent and rounded to the nearest whole cent to determine the actual rate of assessment to be effective on the following April 1. As soon as possible after the rate of withholding is computed, the market administrator would notify in writing all producers currently on the market and any new producer who enters the market of the new withholding rate. Such notification would be repeated annually thereafter only if the withholding rate changed from the previous period. Beginning March 1, producers would have the option of requesting a refund of the money withheld just as they do presently. The order currently provides that producers may request refunds within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, and these provisions would be continued.

The Advertising and Promotion Program was established under the Indiana order effective October 1, 1972. The program has been funded since its inception through a monthly 5-cent per hundredweight assessment on milk delivered during the month by participating producers. The money is deducted by the market administrator in the computation of the uniform price and is turned over to an agency composed of producer representatives who are chosen each year. Certain reserves are withheld by the market administrator to cover refunds to producers and administrative costs.

The advertising and promotion agency is responsible for the development and implementation of programs and projects approved by the Secretary and designed to carry out the purposes of the Act. The scope of the agency's activities may include the establishment of research and development projects, advertising on a non-brand basis, sales promotion, and educational and other programs designed to improve or promote the domestic marketing and consumption of milk and its products. The advertising and promotion program is a voluntary program. Accordingly, each producer, on a quarterly basis, has the option of requesting a refund of the money withheld from payments due the producer.

An increase in the funding rate was requested by three cooperative associations whose members comprise about 90 percent of the producers supplying the market. The cooperatives' spokesman testified that the costs of operating the agency had increased substantially since the program was initiated while revenue to support the program had not kept pace. It was for this reason that the cooperatives proposed that the revenue for funding the program be fixed as a percentage of the producers' weighted average prices in order to keep pace with the current and prospective inflationary direction of the national economy.

The proposal was supported by a fourth cooperative association through a spokesman affiliated with one of the proponents.

A representative of the United Dairy Industry Association presented data in support of the cooperatives' position that additional funds are needed by the agency. The data established that the cost of advertising by the various media in the Indiana area since 1974 has increased by at least 25 percent. In some instances, advertising costs have increased by 150 percent.

The proposed increase in the funding rate is warranted considering the increased costs for advertising that have occurred since the program was established for the Indiana order. The greatest increase in the cost of advertising has occurred in local television, which according to the advertising spokesman, is a preferred advertising outlet. In terms of a dollar's worth of advertising in 1974, television advertising currently costs $2.51. The cost of radio advertising also has increased but not to the same extent as television advertising. One dollar's worth of radio time in 1974 now costs $1.23.

If the proposed funding rate were now in effect, the assessment for the period April 1979 through March 1980 would be 8 cents per hundredweight. This is based on an average weighted average price of $11.18 for the last quarter of 1978. On the basis of the upward trend in weighted average prices for the months of January through June of 1979, it appears likely that the funding rate for the period from April 1980 through March 1981 would be 9 cents per hundredweight.

The proposed rate as a percent of the weighted average price is in line with the rate at which producers originally funded the program. In 1972 when the advertising and promotion program was adopted for the Indiana order, the 5-cent rate was equal to .83 percent of the weighted average price for the year. While the .75 percent rate adopted herein will not generate funds equivalent in purchasing power to the initial funding of the program, the higher rate nevertheless will aid considerably in maintaining the advertising and promotion thrust initially contemplated by producers.

A minor change should be made in the refund procedure with respect to producers who have transferred to the Indiana market from another Federal order market with an Advertising and Promotion Program. Presently, a producer who has elected not to participate in the Advertising and Promotion Program of another order must, upon becoming a producer under the Indiana order, refile such request with the Indiana market administrator for a refund of the money withheld for the Advertising and Promotion Program under the Indiana order. As proposed by cooperatives, this should be changed so that the Indiana market administrator with respect to the producer's marketings of milk under the Indiana order would recognize the producer's request for refund of program assessments under the other order during the current quarter. This will eliminate the necessity for a producer who happens, during the middle of a quarter, to transfer to the Indiana market from another Federal order market with an Advertising and Promotion Program to file twice in the same quarter for such refund.

A further modification of the refund procedures was proposed by a spokesman for a cooperative association. The witness stated that a producer who does not wish to participate in the Advertising and Promotion program should be able to obtain a refund in any month by filing a request with the market administrator during the first fifteen days of any month. The Spokesman stated that the refund request should then apply to the remainder of the calendar year unless the producer rescinds the request.

Under the proposed modification, a refund request would be renewable on an annual basis in the same manner as described previously. The spokesman stated that for a new producer a refund request could be filed at any time during the month. Thereafter, a request could be filed only during the first 15 days of the month.

The proposed modification provided also that a producer would be paid the refund on or before the twentieth day of the second month following the month for which deductions were made.

The spokesman who testified for the proposed modification stated that the present refund provisions are unreasonably complex and burdensome. However, he did not elaborate in any way that would demonstrate that this is in fact the case and that some different refund procedure was warranted. Moreover, there is no evidence that producers in general who are receiving refunds under the program are

dissatisfied with the present refund procedures. The spokesman for the cooperative proposing the modification stated that he represented only a very few of the producers supplying the market. It is therefore concluded that the current record does not provide an adequate basis for making the changes proposed.

Changes have been made in the order to recognize that the current references in several provisions to "weighted average price plus 5 cents" will no longer be appropriate. In implementing the revised funding rate for the Advertising and Promotion program, the order has been modified so that the weighted average price would be computed without deducting the amount of money to be withheld for such program. Accordingly, the current references to "weighted average price plus 5 cents" are changed to read "weighted average price." Under the adopted changes, the uniform price computation will continue, however, to reflect the deduction applicable for funding the Advertising and Promotion program.

The changes adopted herein should be implemented in two steps. It is preferable from an operational standpoint that the change in the funding rate become effective at the beginning of a calendar quarter. At this stage of the proceeding, it appears that the rate change might be made effective on April 1, 1980. The order provides, however, that producers who desire not to participate in the program during the April–June quarter must submit their refund requests during the period March 1 through March 15. Therefore, the provisions directing the market administrator to compute the funding rate and to notify producers of the new rate should be made effective prior to March 1, 1980. In this way, producers would be aware of the forthcoming rate change when deciding whether or not they want to participate in the program during the following calendar quarter.

The record established that agency representation is organized annually in August on the basis of a referendum held in July. Present order language requires a referendum within 30 days after an amendment of the Advertising and Promotion program. That language was provided at the outset of the program. There is no reason why the agency should be reformed within 30 days after the adoption of the amendments provided herein if the effective date of these amendments is April 1, 1980. It is provided herein that a referendum for organizing the agency shall continue to be conducted in July of each year.

### Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

### General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tenative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

### Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Indiana marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. In § 1049.61, paragraphs (c) through (h) and (j) are revised and new paragraphs (k) and (l) are added to read as follows:

**§ 1049.61 Computation of uniform price (including wheighted average price).**

* * * * *

(c) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) the total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1049.60(f);

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price";

(f) For the months of January through March and August, subtract from the weighted average price computed in pararaph (e) of this section the withholding rate for the Advertising and Promotion program as computed in § 1049.121(e). The result shall be the "uniform price" for the applicable month;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (c) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (d)(2) of this section by the weighted average price;

(h) Subtract for each month of April through July the amount obtained by multiplying the hundredweight of producer milk included in these computations by 20 cents. The amount so subtracted, and the interest subsequently earned thereon (less any money not available for crediting under this paragraph because of insufficient payment by a handler to the producer-settlement fund) shall be credited to the producer-settlement fund and remain as an obligated amount until disbursed pursuant to paragraph (i) of this section;

* * * * *

(j) Divide the resulting sum by the hundredweight of producer milk included in these computations;

(k) Subtract the withholding rate for the Advertising and Promotion program as computed in § 1049.121(e); and

(l) subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

**§ 1049.71 [Amended]**

2. In § 1049.71(a)(2)(ii) the words "plus 5 cents" are deleted.

3. Section 1049.75 is revised to read as follows:

**§ 1049.75 Plant location adjustments for producers and on nonpool milk.**

(a) The uniform price for producer milk received or which is deemed to have been received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1049.52(a), except that the adjusted uniform price plus the withholding rate for the Advertising and Promotion program computed in § 1049.121(e), and, for the months of April through July plus an additional 20 cents, or for the months of September through December minus the amount computed pursuant to § 1049.61(i) shall be not less than the Class III price for the month.

(b) For purposes of computations pursuant to §§ 1049.71 and 1049.72 the weighted average price shall be adjusted at the rates set forth in § 1049.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

**§ 1049.76 [Amended]**

4. In § 1049.76(a)(4) the words "plus 5 cents" are deleted.

5. In § 1049.113, paragraph (c)(1) is revised to read as follows:

**§ 1049.113 Selection of Agency members.**

* * * * *

(c) * * *

(1) In June of each year the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

* * * * *

6. In § 1049.120, paragraphs (b) and (c) are revised and a new paragraph (d) is added to read as follows:

**§ 1049.120 Procedure for requesting refunds.**

* * * * *

(b) Except as provided in paragraphs (c) and (d) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July and October, respectively.

(c) Except as provided in paragraph (d) of this section, a dairy farmer who first acquires producer status under this part after the 15th day of December, March, June or September, as the case may be, and prior to the end of ensuing calendar quarter may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such calendar quarter pursuant to § 1049.121(b).

(d) A dairy farmer who, with respect to any calendar quarter, has appropriately filed a request for the refund of program assessments on his marketings of milk under another order that provides for an advertising and promotion program will be eligible on the basis of his request filed under the other order for a similar refund with respect to his producer milk marketed under this order during such quarter for which deductions were made pursuant to § 1049.121(b).

7. Section 1049.121 is revised to read as follows:

**§ 1049.121 Duties of the market administrator.**

Except as specified in § 1049.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) In July of each year, conduct a referendum to determine representation on the Agency pursuant to § 1049.113(c).

(b) Each month set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (e) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b)(2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1049.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section by the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1049.110 through 1049.122).

(d) Audit the Agency's records of receipts and disbursements.

(e) As soon as possible after the beginning of each year, compute the rate of withholding by multiplying the simple average of the monthly "weighted average prices" for the last quarter of the preceding year by 0.75 percent and rounding to the nearest whole cent. This rate shall apply during the 12-month period beginning with April of the current year.

(f) As soon as possible after the rate of withholding is computed, notify in writing each producer currently on the market and any new producer that subsequently enters the market of the withholding rate. This notification shall be repeated annually thereafter only if there is any change in the rate from the previous period.

Note.—This recommended decision has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this decision should not be classified "significant" under those criteria. This decision constitutes the Department's Draft Impact Analysis Statement for this proceeding.

Signed at Washington, D.C., on September 13, 1979.

William T. Manley,

*Deputy Administrator Marketing Program Operations.*

[FR Doc. 79-29010 Filed 9-18-79; 8:45 am]

BILLING CODE 3410-02-M

[7 CFR Part 1135]

[Docket No. AO-380]

## Milk in the Southwestern Idaho-Eastern Oregon Marketing Area; Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Marketing Agreement and Order

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Extension of time for filing exceptions to proposed rule.

**SUMMARY:** This notice extends the time for filing exceptions to a recommended decision concerning a proposed order for the Southwestern Idaho-Eastern Oregon marketing area. Proponents requested additional time to complete an analysis of the decision.

**DATE:** Exceptions now are due on or before October 31, 1979.

**ADDRESS:** Exceptions (4 copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:** Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202-447-7183).

**SUPPLEMENTARY INFORMATION:** Prior documents in this proceeding:

Notice of hearing: Issued October 19, 1978; published October 24, 1978 (43 FR 49704).

Correction: Published October 27, 1978 (43 FR 50187).

Correction: Published November 13, 1978 (43 FR 52496).

Extension of time for filing briefs: Issued February 23, 1979; published February 28, 1979 (44 FR 11236).

Recommended decision: Issued August 13, 1979; published August 16, 1979 (44 FR 48128).

Notice is hereby given that the time for filing exceptions to the above listed recommended decision is hereby extended to October 31, 1979.

This notice is issued purusant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and athe applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on: September 14, 1979.

William T. Manley,

*Deputy Administrator, Marketing Program Operations.*

[FR Doc. 79-29088 Filed 9-18-79; 8:45 am]

BILLING CODE 3410-02-M

## NUCLEAR REGULATORY COMMISSION

[10 CFR Parts 30, 40, 70, 150, and 170]

## Criteria Relating to Uranium Mill Tailings and Construction of Major Plants; Correction

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** Proposed rules; Corrections.

**SUMMARY:** On August 24, 1979, the U.S. Nuclear Regulatory Commission published for comments in the Federal Register (44 FR 50015) proposed amendments to its regulations 10 CFR Parts 30, 40, 70, 150, and 170 entitled, "Criteria Relating to Uranium Mill Tailings and Construction of Major Plants." Inadvertent and typographical errors in the published proposed amendments are identified and corrected herein.

**ADDRESSES:** Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments on the proposed amendment may be examined in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Don F. Harmon, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (phone 301/443-5910) or Hubert J. Miller, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (phone 301/427-4103).

**SUPPLEMENTARY INFORMATION:** On August 24, 1979, the U.S. Nuclear Regulatory Commission published for comments in the Federal Register (44 FR 50015) proposed amendments to its regulations 10 CFR Parts 30, 40, 70, 150, and 170 entitled, "Criteria Relating to Uranium Mill Tailings and Construction of Major Plants." Inadvertent and typographical errors in the published proposed amendments are identified and corrected as follows.

1. Page 50015, column 1, line 16 is corrected to read, "amendments to Parts 40 and 150 are".

2. Page 50015, column 1, line 62 is corrected to read, "proposed amendments may be examined".

3. Page 50015, column 2, line 50 is corrected to read, "to the Commission's regulations to".

4. Page 50016, column 1, line 45 is corrected to read, "Act of 1978 (92 Stat. 3021). This".

5. Page 50016, column 2, line 66 is corrected to read, "of similar hazardous material regulated".

6. Page 50016, column 3, line 32 is corrected to read, "UMTRCA makes it clear that the".

7. Page 50017, column 1, line 50 is corrected to read, "until November 8, 1981, for the".

8. Page 50017, column 2, line 23 is corrected to read, "operation of mills and disposition of".

9. Page 50017, column 2, line 57 is corrected to read, "These criteria were basically derived".

10. Page 50017, column 2, penultimate line is corrected to read, "surrounding environment; and final".

11. Page 50018, column 2, line 7 is corrected to read, "environmental impact statement or".

12. Page 50018, column 3, line 41 is corrected to read, "(92 Stat. 3021)".

13. Page 50018, column 3, line 53 is corrected to read, "be added to read as follows:"

14. Page 50019, column 1, line 11 is corrected to read, "milling operations are no longer active,".

15. Page 50019, column 1, line 38 is corrected to read, "Paragraphs 40.4(a-1), 40.4(e), and 40.4(1)".

16. Page 50019, column 2, line 9 is corrected to read, "3021), any State or any political".

17. Page 50019, column 2, line 17 is corrected to read, "(1) With the exception of "byproduct".

18. Page 50019, column 2, line 21 is corrected to read, "meaning when used in the regulations in".

19. Page 50019, column 2, line 32 is corrected to read, "Tailings Radiation Control Act of 1978".

20. Page 50021, column 1, last line is corrected to read, "exhalation of radon from the tailings or".

21. Page 50021, column 2, line 7 is corrected to read, "not be used to reduce radon exhalation".

22. Page 50023, column 3, line 57 is corrected to read, "Mill Tailings Radiation Control Act of".

23. Page 50023, column 3, line 62 is corrected to read, "(i.e., continued site observation, monitoring and, in some cases where necessary, maintenance) of such".

24. Page 50024, column 2, line 56 is corrected to read, "the payments must, after November 8,".

25. Page 50024, column 3, line 8 is corrected to read, "pursuant to Parts 30 and 32–35 of this chapter, a specific source or byproduct material license issued pursuant to Part 40 of this chapter, a".

26. Page 50025, column 1, line 9 is corrected to read, "produced in conjunction with milling".

27. Page 50025, column 1, line 21 is corrected to read, "produced in conjunction with heap-leaching".

28. Page 50025, column 1, line 32 is corrected to read, "Minor . ... [6]760".

29. Page 50025, column 1, line 45 is corrected to read, "Renewal [4]. . . [6]4,800".

30. Page 50025, column 1, line 47 is corrected to read, "Major [4]. . . [6]1,200".

31. Page 50025, column 1, line 48 is corrected to read, "Minor . . . [6]250".

32. Page 50025, column 2, line 2 is corrected to read, "make the amendments to 10 CFR §§ 40.1,".

(Secs. 11e.(2), 81, 83, 84, 161b, 161o, 161x, 274; Pub. L. No. 83–703, 68 Stat. 948 et seq. (42 U.S.C. 2014e.(2), 2111, 2113, 2114, 2201b, 2201x, 2021)).

Dated at Washington, D.C., this 13th day of September 1979.

For the Nuclear Regulatory Commission.

Lee V. Gossick,

*Executive Director for Operations.*

[FR Doc. 79-29046 Filed 9-18-79; 8:45 am]

BILLING CODE 7590-01-M

---

**[10 CFR Parts 50 and 70]**

## Production and Utilization Facility Licensees; Emergency Planning

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Nuclear Regulatory Commission is proposing to amend its regulations in order to require that all production and utilization facility licensees shall, as a condition of their license, submit emergency plans for NRC review and approval and maintain the emergency plans up to date. The Commission is also proposing to amend its regulations in order to require certain Special Nuclear Material Facility licensees (for processing and fuel fabrication, scrap recovery or conversion of uranium hexafluoride) to maintain the emergency plans up to date.

**DATES:** Comments should be submitted on or before November 19, 1979.

**ADDRESSES:** Interested persons are invited to submit written comments and suggestions on the proposed rule change and/or the supporting value/impact analysis to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Single copies of the value/impact analysis may be obtained on request from Michael T. Jamgochian, 301–443–5981. Copies of the value/impact analysis and of comments received by the Commission may be examined in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael T. Jamgochian, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (phone: 301–443–5981)

**SUPPLEMENTARY INFORMATION:** The Nuclear Regulatory Commission is considering the adoption of amendments to its regulation, "Licensing of Production and Utilization Facilities," 10 CFR Part 50, which would require each holder of a license to submit for NRC review and approval the licensees emergency plans which meet the requirements of Appendix E to 10 CFR Part 50 and to require that these plans be maintained up to date.

In addition, the Nuclear Regulatory Commission is considering the adoption of an amendment to its regulation, "Special Nuclear Material," 10 CFR Part 70, which would require certain licensees to maintain up-to-date emergency plans which contain the elements of Section IV of Appendix E of 10 CFR Part 50.

The Commission is also considering, in a much broader perspective, a number of rule changes relating to planning for emergencies. To that end, an Advance Notice of Rulemaking was published in the Federal Register on July 17, 1979, 44 FR 41483 to request comments on a number of issues. The issue addressed in this Notice of Proposed Rulemaking is merely one aspect of the broader general issues set forth in that Advance Notice.

Paragraph 50.34(a)(10) of 10 CFR Part 50 requires that an applicant provide in the Preliminary Safety Analysis Report "a discussion of the applicant's preliminary plans for coping with emergencies." Appendix E sets forth items which shall be included in these plans. Paragraph 50.34(b)(6)(v) of 10 CFR Part 50 requires that an applicant provide in the Final Safety Analysis Report "plans for coping with emergencies, which shall include the items specified in Appendix E."

These paragraphs in 10 CFR Part 50 became effective in January 1971; therefore, they were not applicable to production and utilization facilities licensed prior to January 1971.

*Discussion for Part 50:* The Commission's interest in emergency planning is focused primarily on situations that may cause or may threaten to cause radiological risks affecting the health and safety of workers or the public or that may result in damage to property. The Commission and the public have recognized the increasing importance of emergency planning. Emergency plans should be directed toward mitigating the consequences of emergencies and should provide reasonable assurance that appropriate measures can and will be taken to protect health and safety and prevent damage to property in the event of an emergency. Although it is not practicable to develop a completely detailed plan encompassing every conceivable type of emergency situation, advance planning can create a high order of preparedness, including provisions of necessary equipment, supplies, and services, and ensure an orderly and timely decisionmaking process at times of stress.

Specifically, in January 1971, § 50.34 to 10 CFR Part 50 was modified to require submittal of the licensees emergency plans with Construction Permit and Operating License applications. Appendix E to Part 50 specifies items to be included in the emergency plans. This revision to our regulations has been implemented by the NRC staff for all power and test reactor licensees. While Appendix E did not, strictly speaking, apply to facilities licensed prior to January 1971, the staff, nevertheless, requested the older power and test reactor licensees to meet the terms of Appendix E. All power and test reactor licensees have emergency plans which conform to 10 CFR Part 50, Appendix E. For research reactors, however, the NRC staff is presently requesting that licensees comply with Appendix E when they apply for a renewal of their operating license. While § 50.90 would likely provide a regulatory basis for requiring compliance with Appendix E at the time of a license renewal, this proposed rule change would accelerate that process. It is the staff's intention to use Regulatory Guide 2.6 ("Emergency Planning for Research Reactors") to aid licensees in complying with the proposed rule change.

After careful consideration of the above, the Commission believes that a rule change should be promulgated which would specifically require

research reactor facility licensees with an authorized power level greater than 500 kW thermal, to submit within one year from the effective date of this rule, emergency plans for NRC review and approval. For all other research reactors, emergency plans shall be submitted within two years from the effective date of this rule. All other production and utilization facility licensees will be legally required to submit emergency plans for NRC review and approval within 120 days from the effective date of this amendment, if they have not done so previously.

Likewise, proper execution of the responsibilities of the licensee requires accurate up-to-date information as a basis for action. Emergency plans are required as a condition of an application (§ 50.34 and § 70.22(i)) and are submitted as part of the FSAR or final license application to address the elements existing in 10 CFR Part 50, Appendix E. Some of the items addressed in the emergency plans are: (1) Means for determining the magnitude of a release of radioactive material; (2) criteria for determining the need for notification and participation of local and State agencies; (3) criteria for determining when protective measures should be considered within and outside the site boundary; (4) onsite decontamination facilities and supplies; and (5) arrangements for services of qualified medical personnel to handle radiation emergencies.

In approving the emergency plans, the Commission must find that the licensees plans conform to the requirements of 10 CFR Part 50, Appendix E, and that the emergency plans provide reasonable assurance that appropriate measures can and will be taken in the event of an emergency to protect public health and safety and prevent damage to property. Once this finding is made, the requirements for maintaining the emergency plans up to date is limited. As the plant gets older, the licensee may make unilateral changes to the emergency plans, such as changing the decontamination facility into a storeroom or changing the criteria for determining the need for modification and participation of local and State agencies, without approval or even notification of NRC. However, Appendix E does provide for the maintenance and inspection of the implementing procedures of the emergency plans.

At this point, a distinction should be made between the licensee emergency plans and the implementation procedures of the licensee emergency plans. As previously stated, emergency plans must be written by the applicant and approved by the NRC before an operating license can be received. A set of implementing procedures must also be written to transfer the descriptions in the plan into detailed step-by-step instructions for plant personnel. In 10 CFR Part 50, Appendix E, Section IV, Paragraph E, the regulations require "Provisions for maintaining up to date: (1) The organization for coping with emergencies, (2) the procedures for use in emergencies, and (3) the lists of persons with special qualifications in coping with emergency conditions." The details of this information are usually in the licensees' implementation procedures and not in the emergency plans. Thus, the regulations do require that the implementation procedures be maintained up to date. Such procedures are, in fact, inspected by the Office of Inspection and Enforcement periodically. However, there is no specific requirement in the Commission's regulations for licensees to maintain the emergency plans up to date, and this lack of regulation could be detrimental to the public health and safety in the event of an emergency situation. Therefore, the thrust of this part of the rule change is not directed to the implementing procedures but to the licensee emergency plans (as submitted in the FSAR). The effect will be on all licensees of production and utilization facilities.

*Part 70:* On March 31, 1977, paragraphs 70.22(i) and 70.23(a)(11) of 10 CFR Part 70 became effective and require that each application for a license to possess and use special nuclear material for processing and fuel fabrication, scrap recovery, or conversion of uranium hexafluoride shall contain plans for coping with radiological emergencies. Prior to this date, licensees developed plans for copying with radiological emergencies based on the requirements imposed as a license condition. the March 31, 1977 rule changes specify that the emergency plans shall contain the elements that are listed in Section IV, "Content of Emergency Plans," of Appendix E to 10 CFR Part 50. However, these rule changes do not require the licensee to maintain the emergency plans up to date. It is the Commission's judgment that the licensee emergency plans should be kept up to date in order to prevent potential problems resulting from the use of outdated information.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Parts 50 and 70 are contemplated.

Copies of comments received on the proposed amendment may be examined in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

## PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. Section 50.54 is amended by adding two new paragraphs (q) and (r) to read as follows:

**§ 50.54 Conditions of licenses**

* * * * *

(q) A licensee authorized to possess and/or operate a facility shall follow and maintain in effect emergency plans approved by the Commission. The licensee may make changes to the approved plans without Commission approval only if such changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the requirements of Appendix E of this chapter. The licensee shall furnish to the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the appropriate NRC regional office specified in Appendix D, Part 20 of this chapter, a report containing a description of each change within six months after the change is made. Proposed changes which decrease the effectiveness of the approved emergency plans shall not be implemented without application to and approval by the Commission.

(r) Each licensee who is authorized to possess and/or operate a research reactor facility, with an authorized power level greater than 500 kW thermal, under a license of the type specified in § 50.21(c) and who had not obtained Commission approval of the emergency plans, as described in § 50.34(b)(6)(v), prior to obtaining an operating license shall submit such plans to the Director of Nuclear Reactor Regulation for approval within one year from the effective date of this rule. Each licensee who is authorized to possess and/or operate a research reactor facility, with an authorized power level less than 500 kW thermal, under a license of the type specified in § 50.21(c) and who had not obtained Commission approval of the emergency plans, as described in § 50.34(b)(6)(v), prior to obtaining an operating license shall submit such plans to the Director of Nuclear Reactor Regulation for approval within two years from the effective date of this rule. Each licensee who is authorized to possess and/or operate any other production or utilization

facility who has not obtained Commission approval of the emergency plans, as described in § 50.34(b)(6)(v), prior to obtaining an operating license shall submit such plans to the Director of Nuclear Reactor Regulation for approval within 120 days from the effective date of this rule.

## PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

2. Section 70.32 is amended by adding paragraph (i) to read as follows:

**§ 70.32 Conditions of licenses**

* * * * *

(i) Licensee required to submit emergency plans in accordance with § 70.22(i) shall follow and maintain in effect emergency plans approved by the Commission. The licensee may make changes to the approved plans without Commission approval only if such changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the requirements of Appendix E, Section IV, of 10 CFR Part 50. The licensee shall furnish to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the appropriate NRC regional office specified in Appendix D, Part 20 of this chapter, a report containing a description of each change within six months after the change is made. Proposed changes which decrease the effectiveness of the approved emergency plan shall not be implemented without application to and approval by the Commission.

(Sec. 161b., Pub. L. 83-703, 68 Stat. 948, sec. 201, Pub. Law 93-438, 88 Stat. 1242 (42 U.S.C. 2201(b), 5841))

Dated at Washington, D.C. this 12th day of September, 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

*Secretary of the Commission.*

[FR Doc. 79-29063 Filed 9-18-79; 8:45 am]

BILLING CODE 7590-01-M

## DEPARTMENT OF THE TREASURY

## Comptroller of the Currency

## [12 CFR Part 18]

## Annual Report To Shareholders

**AGENCY:** Comptroller of the Currency, Treasury.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed revision incorporates several changes intended to clarify and simplify the form and content of the annual report to shareholders. Filing requirements are proposed to be deleted. Comment is also requested as to reasons for retaining or deleting the regulation in its entirety.

**DATES:** Written comments must be received on or before November 19, 1979.

**ADDRESSES:** Comments should be addressed to Mr. Rhoger H. Pugh, Director, Coordination Division, Comptroller of the Currency, Washington, D.C. 20219.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rhoger H. Pugh, Director, Coordination Division, Comptroller of the Currency, Washington, D.C. 20219, (202) 447-1587.

**SUPPLEMENTARY INFORMATION:** The Comptroller of the Currency presently has a regulation, 12 CFR Part 18, requiring certain national banks to distribute annual reports to their shareholders. The present regulation specifies the form of these reports. This proposal would amend the present regulation in the following aspects: (1) It clarifies that banks eligible and electing to use "the small bank call report forms" for statutory reporting purposes (12 U.S.C. 161) may also use those forms to satisfy the requirements for financial statements in their annual reports; (2) copies of annual reports need no longer be provided to the Comptroller or to the appropriate Regional Administrator; and (3) the details of footnote requirements have been replaced by a cross reference to 12 CFR Part 16. In addition, to accommodate situations where a national bank has a small number of shareholders who do not desire an annual report, a new exemptive provision has been added.

Comments are also invited concerning other sections of the proposed regulation and are specifically invited with respect to reasons why this regulation should be retained or deleted in its entirety. It should be noted that corporations and banks, other than national banks, where stock is held by less than 500 shareholders, are not generally required to distribute annual reports to shareholders. It should also be noted that national banks publish certain financial information and such information and other financial information filed by national banks with the Comptroller are available to the public upon request.

**DRAFTING INFORMATION:** The principal drafter of ths document was Rhoger H. Pugh, Director, Coordination Division.

### Proposed Rule

As stated above, the Comptroller proposes to amend 12 CFR Part 18 to read as follows:

## PART 18—FORM AND CONTENT OF ANNUAL REPORT TO SHAREHOLDERS

Sec.



Authortiy: R.S. 324 et seq., as amended (12 U.S.C. 1 et seq.)

**§ 18.1 Scope and application.**

This part is issued by the Comptroller of the Currency under the general authority of the National Banking Laws, R.S. 324 et seq., as amended, 12 U.S.C 1 et seq., and contains rules applicable to the issuance of annual reports by national banks.

(a) Every national bank which is not subject to 12 CFR Part 11 (or which is not a wholly owned subsidiary of a bank holding company, except for directors' qualifying shares) shall mail an annual report to each its shareholders containing, at a minimum, the information required by §§ 18.2 and 18.3 below. Such annual reports shall be mailed to each shareholders at least 10 days prior to the bank's annual meeting, but not later than 60 days after the close of its fiscal year.

(b) A national bank need not prepare and distribute an annual report pursuant to this part for any specific year in which all its shareholders notify the bank in writing that an annual report is not desired.

**§ 18.2 Financial statements.**

(a) The annual report shall include the following financial statements for the most recent and immediately preceding fiscal year:

(1) Balance sheet as of the end of the year.

(2) Statement of earnings for the year.

(3) Statement of changes in capital accounts for the year.

(b) A reconciliation of the allowance for possible loan losses shall be furnished for each statement of earnings.

(c) Earnings per share of common stock shall be furnished for each statement of earnings.

(d) The financial statements shall include, either on their face or in accompanying notes, other disclosures necessary for a fair presentation of financial position and results of operations.

§ 18.3 General rules.

(a) The financial statements should be prepared in accordance with the "Instructions for Preparation of Consolidated Reports of Condition and Reports of Income by National Banking Associations" used by the bank in preparing its call reports.

(b) Financial statement format and classification conforming with the call report may be used. Financial statements presented in a comparative format are generally most useful to shareholders; however banks may use copies of the Consolidated Reports of Condition and Sections A, B and C of the Consolidated Reports of Income filed with the Comptroller for the most recent and immediately preceding year to satisfy the requirements of § 18.2 (a) and (b). National banks with total resources of less than $100,000,000 may provide the applicable schedules from the "small bank call report package" if they filed "small bank call reports" with the Comptroller.

(c) Other disclosures necessary for a fair presentation of financial position and results of operations may include, but are not necessarily limited to, the matters described for footnotes in the instructions for financial statements in 12 CFR 16.6.

Dated: September 12, 1979.

John G. Heimann,

*Comptroller of the Currency.*

[FR Doc. 79-29181 Filed 9-18-79; 8:45 am]

BILLING CODE 4810-33-M

## FEDERAL RESERVE SYSTEM

## [12 CFR Parts 204 and 217]

## [Docket No. R-0238]

## Reserve Requirements and Interest Rate Limitations on Deposits for U.S. Branches and Agencies of Foreign Banks; Extension of Comment Period

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Proposed rulemaking: Extension of comment period.

**SUMMARY:** the Board of Governors of the Federal Reserve System has extended the period for receipt of public comments on its proposal to subject U.S. branches and agencies of foreign banks to the reserve requirements and interest rate ceilings currently applicable to member banks (Docket No. R-0238) until November 23, 1979.

**DATE:** Comments must be received by November 23, 1979.

**ADDRESS:** Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All material submitted should include the Docket Number R-0238.

**FOR FURTHER INFORMATION CONTACT:** C. Keefe Hurley, Jr., senior Attorney (202/452-3269) or Anthony F. Cole, Senior Attorney (202/452-3711), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

**SUPPLEMENTARY INFORMATION:** On July 18, 1979 (44 FR 44876, July 31, 1979), the Board requested comment on a proposal to implement the provisions of Section 7(a) of the International Banking Act of 1978 (92 Stat. 607) by amending Regulation D (Reserves of Member Banks) and Regulation Q (Interest on Deposits) to subject U.S. branches and agencies of foreign banks to the reserve requirements and interest rate ceilings currently applicable to member banks. Comment was requested on the proposal by September 21, 1979. the Board has been requested to extend the comment period in order to provide interested parties with additional time in which to present their views. In light of the issues involved in the proposal and in order to encourage public participation in this matter, the comment period has been extended to November 23, 1979.

By order of the Board of Governors, acting through its Secretary under delegated authority, September 13, 1979.

Theodore E. Allison,

*Secretary of the Board.*

[FR Doc. 79-29011 Filed 9-18-79; 8:45 am]

BILLING CODE 6210-01-M

## DEPARTMENT OF THE TREASURY

## Customs Service

## [19 CFR Part 101]

## Proposed Clarification of Port Limits of Denver, Colo., Port of Entry

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Proposed rule.

**SUMMARY:** Unlike for many ports of entry, there is no reference in the Customs Regulations to an official description of the geographical boundaries of the existing Customs port of entry of Denver, Colorado. Customs has been requested by the State of Colorado to publish the boundaries of the port as they are generally recognized. The port limits would include all the territory within the corporate limits of the City of Denver, Colorado, and part of Adams County, Colorado, lying immediately north of the corporate limits of Denver.

**DATES:** Comments must be received on or before November 19, 1979.

**ADDRESS:** Comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2335, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Robert Schenarts, Inspection and Control Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8151).

**SUPPLEMENTARY INFORMATION:**

Background

The President's Message to Congress of March 3, 1913 (note following 19 U.S.C. 1), which transmitted a plan of reorganization of the Customs Service, provided that in place of all existing Customs-collection districts and ports, there would be 49 specified Customs-collection districts and ports. The District of Colorado, to include all of the State of Colorado, with district headquarters at Denver, in which Denver is the port of entry, is shown as the 47th Customs-collection district. However, no geographical description of the port is included in the document. Furthermore, Customs is unable to find any other reference to an official description of the geographical boundaries of the port.

The State of Colorado is considering establishing a foreign-trade zone within the State. the zone is required by section 2, Foreign Trade Zones Act of 1934, as amended (19 U.S.C. 81b), to be located in or adjacent to a Customs port of entry. In order that the State of Colorado may comply with the statute, it has requested Customs to make an official determination of the actual boundaries of the Denver, Colorado, port of entry (Region VI). The proposed boundaries are those generally recognized by Customs personnel in Denver and at the Regional headquarters in Houston, Texas, and would include:

The territory within the corporate limits of the City of Denver, Colorado, and that part of Adams County, Colorado, lying immediately north of the corporate limits of Denver, bounded on the west by Pecos Street, on the north by 64th Avenue, and on the east by Quebec Street.

If the proposed boundaries are adopted, the list of Customs regions, districts, and ports of entry in § 101.3, Customs Regulations (19 CFR 101.3), would be amended accordingly.

### Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b), Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Legal Publications Division, Room 2335, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

### Authority

This amendment is proposed under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949–1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101–5 (44 FR 31057).

### Regulation Determined To Be Nonsignificant

In a directive published in the Federal Register on November 8, 1978 (43 FR 52120), implementing Executive Order 12044, "Improving Government Regulations", the Treasury Department stated that it considers each regulation or amendment to an existing regulation published in the Federal Register and codified in the Code of Federal Regulations to be "significant." However, regulations which are nonsubstantive, essentially procedural, do not materially change existing or establish new policy, and do not impose substantial additional requirements or cost on, or substantially alter the legal rights or obligations of, those affected, may, with Secretarial approval, be determined not to be significant. Accordingly, it has been determined that this amendment does not meet the Treasury Department criteria in the directive for "significant" regulations.

### Drafting Information

The principal author of this document was Leonard L. Rosenberg, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

R. E. Chasen,
*Commissioner of Customs.*

Approved: September 11, 1979.

Richard J. Davis,
*Assistant Secretary of the Treasury.*

[FR Doc. 79-29079 Filed 9-18-79; 8:45]
BILLING CODE 4810-22-M

---

## DEPARTMENT OF JUSTICE

## Drug Enforcement Administration

## [21 CFR Ch. II]

## Improving Government Regulations; Semiannual Agenda of Regulations

**AGENCY:** United States Department of Justice, Drug Enforcement Administration.

**ACTION:** Publication of Semiannual Agenda.

**SUMMARY:** In compliance with Executive Order No. 12044, which is intended to foster improvement in government regulations and the procedures by which they are issued, and in accordance with Attorney General's Order No. 831–79, "Report on the Implementation of Executive Order No. 12044, 'Improving Government Regulations'", the Drug Enforcement Administration is providing public notice of its plan to simplify its regulations and to streamline its administrative procedures. Major rulemaking activities which the Administration anticipates have also been included in this notice.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stephen E. Stone, Office of the Chief Counsel, Drug Enforcement Administration, Washington, D.C. 20537. Telephone: (202) 633–1141.

**EFFECTIVE DATE:** August 31, 1979.

### I. Review of Significant Regulations

All of the regulations concerning the importation, exportation, manufacture, distribution and dispensing of controlled substances; the scheduling of such substances; the registration of all legitimate handlers of controlled substances; and the administrative procedures to be followed by the Drug Enforcement Administration [DEA], registrants under the Controlled Substances Act, and interested members of the public at large, with respect to registrations, permits, and the initiation and conduct of rulemaking and adjudicatory proceedings, are presently contained in a single volume of the Code of Federal Regulations, that is, 21 CFR Part 1300 to End.

While many of the regulations contained in this volume are clearly of a less significant or housekeeping nature, the majority must be considered significant in that they have an impact upon, and create some burden or responsibility which devolves upon, one or more of the classes of DEA registrants. For the most part, these regulatory controls are congressionally mandated and necessary if the integrity of the closed system of controlled substance distribution is to be maintained. Nevertheless, consistent with the intent of Executive Order 12044, it is the objective of the Drug Enforcement Administration, by way of this semiannual plan or agenda, to initiate a review of all of these regulations, the bulk of which have remained unchanged since the implementation of the Controlled Substances Act in late 1970 and early 1971. In undertaking this review, the Drug Enforcement Administration is seeking to clarify and simplify its regulations and to reduce, to the greatest degree possible, consistent with the requirements of the Controlled Substances Act and the public health and safety, the burdens imposed by these regulations upon those who legitimately handle controlled substances. It is DEA's intention to complete this review process, and to publish in final form its revised regulations, not later than March 31, 1980, so as to permit the publication of these regulations in the Code of Federal Regulations volume which will become available, if normal printing schedules prevail, during the late summer of that year.

In order to permit maximum participation in this review process, by the public and by all affected entities, the 60-day period following publication of this agenda will be considered a comment period during which the DEA will solicit and encourage comments and suggestions concerning all of the regulations under review. Thus, it is anticipated that this comment period will close on or about October 31, 1979. Approximately 60 days thereafter, or on or about December 31, 1979, DEA will publish, by way of a notice of proposed rulemaking, all of the changes, amendments and deletions which this review has shown to be necessary. A second 60-day comment period will follow publication of the proposed revised regulations. It is anticipated that the final regulations will be published on or about March 1, 1980. During the entire review period, the Drug Enforcement Administration will solicit and encourage the active participation

of the affected industries and professions. It is anticipated that articles concerning the regulatory review process will be published in the various trade and professional journals and newsletters as well as in the DEA publications which are made available to all registrants and to the State agencies involved in controlled substance regulation and law enforcement. Whereever and whenever possible, within the limitations imposed by budgetary constraints and normal day-to-day workloads, the Drug Enforcement Administration will make its personnel available to meet with members of the affected industries and professions so as to make their participation in the review process as meaningful as possible.

The Drug Enforcement Administration proposes to review the following Parts of Title 21, Code of Federal Regulations, pursuant to this Semiannual Agenda:

## PART 1301—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS AND DISPENSERS OF CONTROLLED SUBSTANCES

Regulations in Part 1301 define the various classes of controlled substance registrants; describe the required fees and application process; establish rules with respect to certain individuals and entities which are exempt from registration; set forth the requirements for registration, the procedures for modifying, transferring and terminating registrations; and set out some of the administrative procedures with respect to actions to deny, suspend or revoke registrations.

*Legal basis*—21 U.S.C. 821–824.

*Knowledgeable Official*—Mr. Joseph Trincellito, Office of Compliance and Regulatory Affairs, Drug Enforcement Administration, Washington, D.C. 20537. Telephone (202) 633–1172.

*Regulatory Analysis*—Not Required.

*Discussion*—Review of this Part will focus on the clarification and simplification of terms. To facilitate use of the regulations by registrants and their counsel, all regulations concerning administrative actions against DEA registrations, including procedural rules concerning hearings on registration matters, will be consolidated in Part 1316. Consideration will be given to amending § 1301.76, to prohibit any registrant from employing any person who has been convicted of a controlled substance-related felony in any position which gives such person access to controlled substances.

## PART 1303—QUOTAS

Regulations in Part 1303 define the quotas which are required to be set annually with respect to the production of each basic class of controlled substance in Schedules I and II; define the terminology used in the quota-setting process; set out the procedures used in the setting of aggregate production and procurement quotas; establish the procedures for fixing individual manufacturing quotas; and establish administrative procedures with respect to hearings on quota matters.

*Legal basis*—21 U.S.C. 821 and 826.

*Knowledgeable Official*—Mr. Howard McClain, Chief, Regulatory Control Division, Office of Compliance and Regulatory Affairs, Drug Enforcement Administration, Washington, D.C. 20537. Telephone (202) 633–1366.

*Regulatory Analysis*—Not Required.

*Discussion*—The concept of establishing quotas to limit the production is somewhat unique. In the Controlled Substances Act, Congress has mandated a quota scheme which is designed to limit the production of Schedule I and II controlled substances to an amount which approximates the legitimate medical, scientific, research and industrial needs of the United States. The review of Part 1303 will be focused upon simplifying the quota-setting procedures and fine-tuning the requisite reporting and application requirements so as to minimize the paperwork burden upon both DEA and the affected entities while still permitting an accurate assessment of the legitimate requirements for these basic classes of controlled substances. Again, to better organize the CFR volume and to make it more usable, the procedural rules dealing with hearings will be removed to a separate part concerned exclusively with administrative procedures.

## PART 1304—RECORDS AND REPORTS OF REGISTRANTS

The regulations in Part 1304 deal with the records which all registrants—importers and exporters, manufacturers, distributors, dispensers and narcotic treatment programs—are required to keep. Generally, all registrants are required to maintain records relating to their acquisitions, inventories, and dispositions of all controlled substances. Additionally, some registrants are required to maintain specialized records in limited instances. Periodic reporting requirements are levied on certain classes of registrants as well as those who handle specific Schedules or types of controlled substances.

*Legal basis*—21 U.S.C. 821 and 827.

*Knowledgeable Official*—Mr. Joseph Trincellito, Office of Compliance and Regulatory Affairs, Drug Enforcement Administration, Washington, D.C. 20537. Telephone (202) 633–1172.

*Regulatory Analysis*—Not Required.

*Discussion*—The Controlled Substances Act imposes basic requirements for the maintenance of records and inventories relating to the legitimate handling of controlled substances. The diversion of legitimately produced controlled substances from their intended medical, scientific and industrial channels into the illicit market remains a serious problem directly affecting the public health and safety. The importance of complete and accurate recordkeeping cannot be minimized. In addition to creating a trail by which DEA and State law enforcement personnel can follow drug transactions to ensure the public that the closed system of distribution required by law is being maintained, these records provide the registrant with the means of detecting diversion and taking corrective action on their own initiative. Nevertheless, in recognition of the indirect costs implicit in recordkeeping requirements, the DEA has been receptive to alternative systems, such as automated records and data processing, as long as such records are readily retrievable and as long as they are designed in a manner which maintains the integrity of the closed distribution system. In this review, DEA will solicit, and be receptive to, suggestions which will result in a reduction of the direct and indirect costs of recordkeeping, while remaining faithful to the statutory mandate for complete, accurate and readily retrievable records of controlled substance transactions.

## PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

The Controlled Substances Act, in addition to declaring a number of drugs and other substances to be controlled substances, the use and handling of which were prohibited or otherwise limited in accordance with the provisions of the Act, provided for an administrative procedure by which other substances could be controlled and by which controlled substances could be changed in Schedule or totally removed from control. The Act also provided that the total list of controlled substances in all Schedules be published from time to time. Part 1308 contains the complete listing of all controlled substances as of April 1 of each year. This Part also contains complete lists of all non-narcotic substances excluded from

control, all chemical preparations specifically exempted from control, and all stimulant and depressant compounds excepted from control, as well as rules relating to the administrative procedures concerning scheduling, exclusion, exemption and exception from control.

*Legal basis*—21 U.S.C. 811, 812 and 821.

*Knowledgeable Official*—Mr. Howard McClain, Chief, Regulatory Control Division, Office of Compliance and Regulatory Affairs, Drug Enforcement Administration, Washington, D.C. 20537. Telephone (202) 633–1366.

*Regulatory Analysis*—Not Required.

*Discussion*—The provisions of 21 U.S.C. 811, concerning the criteria and authority for classifying substances within the five schedules of the Controlled Substances Act, and the regulations in Part 1308, concerning the administrative procedures relating to such classification, have generally worked well. If there is any criticism of this procedure, it would be that the system is too slow in reacting to new or modified substances as they become subject to abuse. The public interest is best served when such new abused substances are rapidly controlled and subjected to the vigorous law enforcement efforts and regulatory constraints envisioned and required by the Act. While the remedy for this problem may well require legislation as opposed to regulation, we will encourage any suggestions with respect to the streamlining of the present administrative procedures required by the Act.

The process of excluding, exempting and excepting certain drugs and other chemical preparations is a true cost-reduction device, benefiting the pharmaceutical and chemical industries directly and, hopefully, the consuming public indirectly. Drugs and chemical preparations in these categories are not subject to abuse in the form in which they are marketed and so are not subject to the indirect costs normally imposed by the registration, security and recordkeeping requirements of the Act. The regulations concerning this process will be reviewed for clarity and simplicity of use.

In the most recently published edition of 21 CFR, the list of excepted prescription drugs in Part 1308 covered some 223 pages of the 388 pages in the volume. This table, although necessary, is useful to only a very small percentage of the persons who purchase the CFR volume. Thus, in order to make the basic volume of regulations smaller and less expensive to the vast majority of users, while still making the table of excepted prescription drugs available to those who need it, the Drug Enforcement Administration, by final order published in the Federal Register on March 30, 1979 (44 FR 18968), removed this table from Part 1308. In future editions of the CFR, this table will be available as a separate volume.

The administrative procedures and rules concerning hearings relating to the scheduling of controlled substances which are currently contained in Part 1308 will be removed to a separate Part (Part 1316) concerned exclusively with administrative procedures.

### PART 1311—REGISTRATION OF IMPORTERS AND EXPORTERS OF CONTROLLED SUBSTANCES

### PART 1312—IMPORTATION AND EXPORTATION OF CONTROLLED SUBSTANCES

These two Parts contain the regulations relating to the requirements for importer and exporter registrations; applications for registration; the administrative process concerning the denial, revocation or suspension of such registrations; the requirement of permits for the importation and exportation of controlled substances; regulations concerning the transshipment of controlled substances through the territory of the United States; special recordkeeping and reporting requirements concerning the importing and exporting of controlled substances; and administrative procedures with respect to import and export permits.

*Legal basis*—21 U.S.C. 951–958.

*Knowledgeable Official*—Mr. Ronald W. Buzzeo, Chief, Compliance Division, Office of Compliance and Regulatory Affairs, Drug Enforcement Administration, Washington, D.C. 20537. Telephone (202) 633–1321.

*Discussion*—These regulations will be reviewed for clarity and to insure that they do not impose any unnecessary burdens upon the affected entities. All procedural sections concerning administrative hearings and actions against registrations and permits will be removed to a separate Part concerned solely with administrative matters.

### PART 1316—ADMINISTRATIVE FUNCTIONS, PRACTICES AND PROCEDURES

The regulations in this Part include those relating to administrative inspections and administrative inspection warrants; the protection of researchers and research subjects; enforcement proceedings or informal hearings; formal or administrative hearings, including the specified powers of the administrative law judge; and procedures relating to the seizure, administrative forfeiture and disposition of property.

*Legal basis*—21 U.S.C. 875–877, 880, 881 and 883.

*Knowledgeable Official*—Mr. Stephen E. Stone, Office of the Chief Counsel, Drug Enforcement Administration, Washington, D.C. 20537. Telephone (202) 633–1141.

*Regulatory Analysis*—Not Required.

*Discussion*—All regulations contained in this Part will be reviewed for clarity. Additionally, all of the sections concerned with administrative hearings and previously discussed with respect to Parts 1301, 1303, 1308, 1311 and 1312, will be transferred to Part 1316 to the extent that they are not repetitive. Administrative hearing procedures will be streamlined. For example, it has been suggested that the Administrative Law Judge be permitted to rule on motions for summary judgment in cases in which only questions of law are involved. Regulations concerning the processing of administrative forfeiture matters will be revised so as to be consistent with the $10,000.00 jurisdictional threshold between administrative and judicial forfeitures. (See Pub. L. 95–410, October 3, 1978). Sections 1316.09 and 1316.13 have been the root of unnecessary disagreement and litigation. These sections, which were intended to provide guidance to DEA Compliance Investigators, have been cited in motions to suppress evidence and other pleadings as giving registrants substantive rights with respect to administrative inspections. These sections will be reviewed to determine whether their publication as regulations is necessary and if it is determined that such continued publication is helpful, they will be revised so that their intent is clearly indicated.

## II. Significant Regulations Under Consideration

The following proposed new significant regulation is presently under consideration by the Drug Enforcement Administration:

### TITLE—PROPOSED LIMITATIONS OF IMPORTS OF NARCOTIC RAW MATERIALS

*Summary*—This regulation would prohibit the importation into the United States of narcotic raw materials other than from those nations which have traditionally produced opium for export.

*Legal basis*—The Controlled Substances Import and Export Act (21 U.S.C. 951, et seq.)

*Regulatory Analysis*—Not Required.

*Knowledgeable Official*—Mr. William M. Lenck, Chief Counsel, Drug

Enforcement Administration, Washington, D.C. 20537. Telephone (202) 633–1276.

*Discussion*—On June 12, 1979, the Drug Enforcement Administration published an Advanced Notice of Proposed Rulemaking with respect to this regulatory amendment to 21 CFR Part 1312. (See 44 FR 33695) The rationale for this regulation, as set forth in detail in the Advanced Notice of Proposed Rulemaking, would be that there presently exists a worldwide surplus of narcotic raw materials. Predictions by the United Nations International Narcotics Control Board indicate that by 1982, unless substantial changes are made, morphine manufacturing capacity will be approximately 50% in excess of morphine demand. In the face of present, as well as projected future, oversupply of narcotic raw materials, there is a disturbing trend toward the proliferation of nations that produce narcotic raw materials for export.

In recognition of this problem, the United Nations Commission on Narcotic Drugs, during its February 1979 session, adopted Resolution 471 which is entitled, "Maintenance of a world-wide balance between the supply of narcotic drugs and the legitimate demand for those drugs for medical and scientific purposes." Among other things, this resolution calls upon the importing countries, such as the United States, insofar as their constitutions and legal authorities permit, to support the traditional supply countries and to give all practical assistance they can to avoid the proliferation of producing and/or manufacturing sources for export.

The United States is a significant importer of narcotic raw materials, accounting for one-third of the world morphine manufacturing capacity. Historically, the United States has relied exclusively upon imports of opium gum to manufacture our narcotic medical supplies. In recent years, however, as a supplement to its imports of opium, the United States has authorized the importation of poppy straw and concentrate of poppy straw, the effect of which has been that the United States has become an attractive import market for concentrate of poppy straw and there has been a significant deviation from prior U.S. policy of importing only from the traditional sources which produce opium for export, a limitation which has proven to be effective over the years.

Dated: September 13, 1979.

Peter B. Bensinger,

*Administrator, Drug Enforcement Administration.*

[FR Doc. 79-29047 Filed 9-18-79; 8:45 am]

BILLING CODE 4410-09-M

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## [26 CFR Part 1]

## [LR-43-76]

## Income Tax; Tax Treatment of Certain Short-Term Corporate Obligations and Certificates of Deposit and Similar Deposit Arrangements; Public Hearing on Proposed Regulations

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Public hearing on proposed regulations.

**SUMMARY:** This document provides notice of a public hearing on proposed regulations relating to the tax treatment of amounts earned on short-term corporate obligations and on certificates of deposit and similar deposit arrangements which are proposed in the Proposed Rules section of this issue of the Federal Register.

**DATES:** The public hearing will be held on November 1, 1979, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by October 19, 1979.

**ADDRESS:** The public hearing will be held in the I.R.S. Auditorium, seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR–43–76), Washington, D.C. 20224.

**FOR FURTHER INFORMATION CONTACT:** George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202–566–3935, not a toll-free call.

**SUPPLEMENTARY INFORMATION:** The suject of the public hering is proposed regulations under sections 451 (a) and 1232 (b) (1) of the Internal Revenue Cdode of 1954. The proposed regulations appear in the Proposed Rules section of this issue of the Federal Register.

The rules of § 601.601 (a) (3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by October 19, 1979. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

Robert A. Bley,

*Director, Legislation and Regulations Division.*

[FR Doc. 79-29080 Filed 9-18-79; 4:02 pm]

BILLING CODE 4830-01-M

## [26 CFR Part 1]

## [LR-43-76]

## Income Tax; Tax Treatment of Certain Short-Term Corporate Obligations and Certificates of Deposit and Similar Deposit Arrangements

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations concerning the tax treatment of certain short-term corporate obligations and certificates of deposit, time deposits, bonus plans, or other deposit arrangements issued or entered into by banks or similar financial institutions. The regulations would reflect a change in the position of the Internal Revenue Service with respect to the tax treatment of these types of obligations and deposits and would provide the public with needed guidance.

**DATES:** Written comments and requests for a public hearing must be delivered or mailed by October 19, 1979. The amendments are proposed to be effective for corporate obligations and certificates of deposit, time deposits, bonus plans, and other deposit

arrangements issued or entered into after December 31, 1978.

**ADDRESS:** Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-43-76), Washington, D.C. 20224.

**FOR FURTHER INFORMATION CONTACT:** John A. Tolleris of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3516.

**SUPPLEMENTARY INFORMATION:**

Background

On July 5, 1979, the Federal Register published a proposed amendment to the Income Tax Regulations (26 CFR Part 1) under section 1232 (a) (3) of the Internal Revenue Code of 1954 (44 FR 39200). The amendment was proposed to provide that the holders of certain corporate obligations (including certificates of deposit and similar deposit arrangements) issued after June 30, 1979, that mature in one year or less include as interest in gross income a ratable monthly portion of original issue discount. Numerous adverse comments were received with respect to the notice of proposed rulemaking and a public hearing on the proposed amendment was held on August 14, 1979.

Many of the comments submitted in response to the notice of proposed rulemaking noted the increased administrative burden in accounting for, and reporting, original issue discount that would be created by the proposed amendment. The comments also noted that § 1.1232-3 (b) (1) (iii) (*a*) of the regulations distinguishes periodic payments of interest at intervals of one year or less over the term of an obligation from original issue discount. These comments suggested, in view of this rule which applies to obligations with terms that are longer than one year, that the rules of the proposed amendment for obligations that mature in one year or less are inappropriate.

After careful consideration of all comments regarding the proposed amendment, it has been decided that the July 5, 1979, notice of proposed rulemaking be withdrawn and that additional regulations be proposed that would, if finalized, supersede Revenue Ruling 79-72, 1979-12 IRB 14.

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 451 (a) and 1232 (b) (1) of the Internal Revenue Code of 1954. These amendments are proposed in order to clarify the tax treatment of certain short-term corporate obligations and certificates of deposit, time deposits, bonus plans, and other deposit arrangements, issued or entered into by banks, domestic building and loan associations, and similar financial institutions. The regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Explanation of Provisions

The proposed regulations would make two separate amendments that would affect the tax treatment of amounts earned on certain short-term corporate obligations and on certificates of deposit and similar deposit arrangements.

The first amendment is to the regulations under section 1232 (b) (1) of the Code which defines "original issue discount" as the difference between the issue price of an obligation and its stated redemption price at maturity. Section 1.1232-3 (b)(1) (iii) (*a*), in defining the term "stated redemption price at maturity", contains a periodic payment rule which provides that if any amount based on a fixed rate of interest is actually payable or treated as constructively received at fixed periodic intervals of one year or less during the entire term of the obligation, then any such amount payable at maturity is not included in determining the stated redemption price at maturity. The proposed amendment to § 1.1232-3 (b) (1) (iii) (*a*) would extend this periodic payment rule to obligations with a term of one year or less for which a single payment of interest is made at maturity. As a result of this amendment, amounts earned on these corporate obligations and certificates of deposit and similar deposit arrangements will not be treated as original issue discount subject to ratable inclusion in income under section 1232 (a) (3) of the Code. Rather, these amounts will be treated as interest and included in the taxpayer's gross income in the year actually or constructively received.

Since these corporate obligations and certificates of deposit and similar deposit arrangements will not have original issue discount, the provisions of § 1.163-4 (a) (1) which provide generally for original issue discount to be deducted as interest by banks or similar financial institutions and prorated or amortized over the term of the deposit, will no longer apply. Thus, interest on such obligations and deposits may be deducted only when paid or accrued. In addition, the proposed amendment to § 1.1232-3 (b) (1) (iii) (*a*) provides that the term of the obligation includes any renewal periods. Thus, for example, the periodic payment rule will not apply to a one year certificate of deposit or similar deposit arrangement that is renewable for a specified number of years. The tax treatment of this type of instrument will continue to be governed by § 1.1232-3A (e) (4) of the regulations.

The second amendment that would be made by the notice of proposed rulemaking is to the regulations under section 451 (a) of the Code relating to constructive receipt of income. Section 1.451-2 (a) of the regulations states that income is not constructively received if the taxpayer's control of its receipt is subject to substantial limitations or restrictions. However, § 1.451-2 (a) (2) of the regulations provides that the fact that a taxpayer would, by not withdrawing the earnings payable in respect of a deposit in a bank or similar financial institution until a later date, receive a higher rate of earnings than would be payable if the earnings are withdrawn during the taxable year, is not a substantial limitation or restriction on the taxpayer's control over receipt of the earnings. The proposed regulations would amend § 1.451-2 (a) (2) to provide that the taxpayer's control is not subject to substantial limitations or restrictions if the taxpayer would, by withdrawing the earnings payable on any deposit or account in a bank, building and loan association, savings and loan association, or similar institution during the taxable year, receive earnings that are not substantially less in comparison with the earnings for the corresponding period to which the taxpayer would be entitled had the account been left on deposit until a later date. An example is added to provide that if three months' interest must be forefeited on withdrawal or surrender of a one year certificate of deposit or similar deposit arrangement before maturity, then the earnings payable on premature withdrawal or surrender would be substantially less when compared with the earnings available at maturity. Thus, the interest forfeiture penalty would be a substantial limitation or restriction on the taxpayer's control and no interest earned on such deposit would be constructively received by the taxpayer before maturity.

Revenue Ruling 79-72

The rules of the amendments proposed in this document would apply to the time deposit certificates to which Revenue Ruling 79-72, 1979-12 IRB 14, relating to Federal income tax treatment of interest on short-term non-negotiable time deposit certificates issued by financial institutions where the term of the certificate overlaps the end of the holder's taxable year, applied. Therefore, if the amendments proposed

in this document are adopted as a Treasury decision, Revenue Ruling 79-72 would be superseded.

Comments—Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held in accordance with the notice of hearing published in this issue of the Federal Register.

30-Day Period for Public Comment

In order to provide certainty regarding the tax treatment of short-term corporate obligations and certificates of deposit and similar deposit arrangements at the earliest possible date, final regulations must be adopted by a Treasury decision by December 31, 1979. Therefore, 30 days, rather than the normal 60 days, has been allowed for receipt of public comment on the proposed amendments in order to provide this necessary certainty at the earliest date.

Drafting Information

The principal author of this proposed regulation is John A. Tolleris of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Paragraph (a)(2) of § 1.451-2 is amended to read as follows:

**§ 1.451-2 Constructive receipt of income.**

(a) *General rule.* * * *

(2) The fact that the taxpayer would, by withdrawing the earnings during the taxable year, receive earnings that are not substantially less in comparison with the earnings for the corresponding period to which the taxpayer would be entitled had he left the account on deposit until a later date. For example, if an amount equal to three months' interest must be forfeited upon withdrawal or redemption before maturity of a one year certificate of deposit, time deposit, bonus plan, or other deposit arrangements then the earnings payable on premature withdrawal or surrender would be substantially less when compared with the earnings available at maturity;

* * * * *

Par. 2. Paragraph (b)(1)(iii)(*a*) of § 1.1232-3 is amended by revising the second sentence thereof to read as follows:

**§ 1.1232-3 Gain upon sale or exchange of obligations issued at a discount.**

* * * * *

(b) *Definitions*—(1) *Original issue discount.* * * *

(iii) *Stated redemption price at maturity*—(*a*) *Definition.* * * * If any amount based on a fixed rate of simple or compound interest is actually payable or will be treated as constructively received under section 451 and the regulations thereunder either—

(*1*) At fixed periodic intervals of one year of less during the entire term of an obligation, or

(*2*) In the case of obligations with a term (including renewal periods) of one year or less, at maturity,

any such amount payable at maturity shall not be included in determining the stated redemption price at maturity. * * *

* * * * *

Jerome Kurtz,
*Commissioner of Internal Revenue.*

[FR Doc. 79-29081 Filed 9-14-79; 8:45 am]
BILLING CODE 4830-01-M

---

[26 CFR Parts 1 and 11]

[LR-186-78]

## Income Tax; Treatment of Losses on Small Business Stock

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations relating to the treatment of losses on small business stock. Changes to the applicable tax law were made by the Revenue Act of 1978. The regulations would provide the public with the guidance needed to comply with the changes.

**DATES:** Written comments and requests for a public hearing must be delivered by November 19, 1979. The amendments are proposed to apply to stock issued after November 6, 1978.

**ADDRESS:** Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, (LR-186-78), Washington, D.C. 20224.

**FOR FURTHER INFORMATION CONTACT:** Susan K. Thompson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, (Attention: CC:LR:T) (202-566-3294).

**SUPPLEMENTARY INFORMATION:**

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) and to the Temporary Income Tax Regulations under the Employee Retirement Income Security Act of 1974 (26 CFR Part 11) under sections 414, 1244, and 1563 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 345 of the Revenue Act of 1978 (92 Stat. 2763) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805) and section 1244(e) of the Internal Revenue Code of 1954 (72 Stat. 1680; 26 U.S.C. 1244).

New Rules

This notice of proposed rulemaking contains new rules that apply to post-November 1978 stock, defined as stock issued after November 6, 1978.

In general, the new rules reflect a statutory liberalization of the requirements relating to losses on small business stock. The maximum amount an individual may treat as an ordinary loss in a taxable year has been increased. In the case of a single individual, the new limitation is $50,000; in the case of a husband and wife filing a joint return for the taxable year in which the loss is incurred, the limitation is $100,000.

The new rules reflect the repeal of the $1,000,000 equity capital limitation (defined as the sum of the corporation's money and other property, taken into account at adjusted basis for determining gain, less indebtedness to non-shareholders). Thus, a small business corporation may issue common stock under section 1244 without regard to the amount of its equity capital if the amount received for the new issuance, together with money and other property received by the corporation since June 30, 1958, for stock, as a contribution to capital, and as paid-in surplus does not exceed $1,000,000. The statutory requirements have been further relaxed to provide that section 1244 stock may be issued without a written plan and despite the fact that a prior stock offering is outstanding.

If a corporation issues common stock in exchange for an aggregate amount of money and other property exceeding $1,000,000, the proposed amendments to the regulations provide that the corporation is to designate certain shares as section 1244 stock. This

designation may be made by recording the certificate numbers of the qualifying shares or by making an alternative designation in any manner sufficient to identify the shares which are section 1244 stock. In the event that a corporation fails to make this designation, a method of allocating ordinary loss treatment is provided so that the section 1244 benefit is not forfeited.

### Clarifying and Conforming Changes

These proposed amendments to the regulations also include clarifying changes relating to taxpayers entitled to ordinary loss (under § 1.1244 (a)–1 (b)) and relating to the net operating loss deduction (under § 1.1244 (d)–4). An individual who is a partner in a partnership that incurs a loss on section 1244 stock may deduct, as an ordinary loss, the lesser of the individual's distributive share at the time of the issuance of the stock or the distributive share at the time the loss is sustained. With respect to the net operating loss deduction, the new rules clarify that a taxpayer may deduct the maximum amount of ordinary loss permitted by the statutory limitations even though all or a portion of the net operating loss carryback or carryover for the taxable year was, when incurred, a loss on section 1244 stock. Additionally, the proposed amendments make conforming changes to certain Income Tax Regulations relating to consolidated returns and to the Temporary Income Tax Regulations under the Employee Retirement Income Security Act of 1974.

Section 103(a)(7) of H.R. 2797, the "Technical Corrections Act of 1979", reported by the Committee on Ways and Means of the House of Representatives on May 31, 1979, would amend the effective dates of section 345(e) of the Revenue Act of 1978. If this amendment is enacted, the increased ordinary loss limitations provided by the Revenue Act of 1978 would be applicable to taxable years beginning after December 31, 1978, whether the section 1244 stock on which the loss was sustained was issued before or after November 6, 1978. Additionally, the increased dollar limitation would apply to losses sustained in 1978 on section 1244 stock issued after November 6, 1978. Should H.R. 2797 become law, these and any similar changes will be reflected upon publication of this notice of proposed rulemaking as a final Treasury decision.

### Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

### Drafting Information

The principal author of these proposed regulations is Susan K. Thompson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

### Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Parts 1 and 11 are as follows:

**§ 1.1244(a) [Deleted]**

Paragraph 1. Section 1.1244(a) and the historical note are deleted.

Par. 2. Paragraph (b) of § 1.1244(a)–1 is amended to read as follows:

**§ 1.1244(a)–1 Loss on small business stock treated as ordinary; loss.**

* * * * *

(b) *Taxpayers entitled to ordinary loss.* The allowance of an ordinary loss deduction for a loss of section 1244 stock is permitted only to the following two classes of taxpayers:

(1) An individual sustaining the loss to whom the stock was issued by a small business corporation, or

(2) An individual who is a partner in a partnership at the time the partnership acquired the stock in an issuance from a small business corporation and whose distributive share of partnership items reflects the loss sustained by the partnership. The ordinary loss deduction is limited to the leser of the partner's distributive share at the time of the issuance of the stock or the partner's distributive share at the time the loss is sustained. In order to claim a deduction under section 1244 the individual, or the partnership, sustaining the loss must have continuously held the stock from the date of issuance. A corporation, trust, or estate is not entitled to ordinary loss treatment under section 1244 regardless of how the stock was acquired. An individual who acquires stock from a shareholder by purchase, gift, devise, or in any other manner is not entitled to an ordinary loss under section 1244 with respect to this stock. Thus, ordinary loss treatment is not available to a partner to whom the stock is distributed by the partnership. Stock acquired through an investment banking firm, or other person, participating in the sale of an issue may qualify for ordinary loss treatment only if the stock is not first issued to the firm or person. Thus, for example, if the firm acts as a selling agent for the issuing corporation the stock may qualify. On the other hand, stock purchased by an investment firm and subsequently resold does not qualify as section 1244 stock in the hands of the person acquiring the stock from the firm.

* * * * *

**§ 1.1244(b) [Amended]**

Par. 3. Section 1.1244(b) and the historical note are deleted.

Par. 4. Section 1.1244(b)–1 is amended to read as follows:

**§ 1.1244(b)–1 Annual limitation.**

(a) *In general.* Subsection (b) of section 1244 imposes a limitation on the aggregate amount of loss that for any taxable year may be treated as an ordinary loss by a taxpayer by reason of that section. In the case of a partnership, the limitation is determined separately as to each partner. Any amount of loss in excess of the applicable limitation is treated as loss from the sale or exchange of a capital asset.

(b) *Aggregate amount of loss*—(1) *Pre-November 1978 stock.* The aggregate amount of loss on pre-November 1978 stock (as defined in § 1.1244 (c)–1 (a)) that for any taxable year may be treated as an ordinary loss by a taxpayer is $25,000. However, if a husband and wife file a joint return under section 6013 for the taxable year in which a loss is sustained on pre-November 1978 stock, the limitation on the aggregate amount of loss is $50,000, even though the loss may have been sustained by only one of the spouses.

(2) *Post-November 1978 stock.* The aggregate amount of loss on post-November 1978 stock (as defined in § 1.1244 (c)–1 (a)) that for any taxable year may be treated as an ordinary loss by a taxpayer is $50,000. However, if a husband and wife file a joint return under section 6013 for the taxable year in which a loss is sustained on post-November 1978 stock, the limitation on the aggregate amount of loss is $100,000, even though the loss may have been sustained by only one of the spouses.

(3) *Pre-November 1978 stock and post-November 1978 stock.* If a taxpayer sustains losses on both pre-November 1978 stock and post-November 1978 stock in the same taxable year, the limitations described in subparagraphs

(1) and (2) of this paragraph (b) are applied separately to the pre-November 1978 stock and post-November 1978 stock, respectively, as the first step in determining the amount deductible as ordinary loss under section 1244. The total of the amounts thus derived in the amount deductible as ordinary loss under section 1244, to the extent it does not exceed $50,000 in the case of a single taxpayer and $100,000 in the case of a married taxpayer who filed a joint return.

(4) *Examples.* The provisions of this section may be illustrated by the following examples:

*Example (1).* A, a married taxpayer who files a joint return, sustains a $50,000 loss on pre-November 1978 section 1244 stock in Corporation X and an equal amount of loss on pre-November 1978 section 1244 stock in Corporation Y in the same taxable year. A is limited to $50,000 of ordinary loss.

*Example (2).* B, a married taxpayer, sustains a $90,000 loss on post-November 1978 section 1244 stock in Corporation X. In the same taxable year, C, B's spouse, sustains a $25,000 loss on post-November 1978 section 1244 stock in Corporation Y. If B and C file a joint return under section 6013, their ordinary loss is limited to $100,000.

*Example (3).* D, a married taxpayer who files a joint return, sustains a $50,000 loss on pre-November 1978 section 1244 stock and a $75,000 loss on post-November 1978 section 1244 stock in the same taxable year. D is limited to $100,000 of ordinary loss.

*Example (4).* E, a married taxpayer who files a joint return, sustains a $75,000 loss on pre-November 1978 section 1244 stock and a $15,000 loss on post-November 1978 section 1244 stock in the same taxable year. E is limited to $65,000 of ordinary loss.

*Example (5).* F, a married taxpayer who files a joint return, sustains a $75,000 loss on pre-November 1978 section 1244 stock and a $125,000 loss on post-November 1978 section 1244 stock in the same taxable year. F's loss on pre-November 1978 stock is limited to $50,000 of ordinary loss under the rule of subparagraph (1) of this paragraph (b). F's loss on post-November 1978 stock is limited to $100,000 of ordinary loss under the rule of subparagraph (2) of this paragraph (b). The total of these losses, $150,000, is limited to $100,000 of ordinary loss under the rule of subparagraph (3) of this paragraph (b). F's aggregate amount of ordinary loss under section 1244 is $100.000.

Par. 5. Section 1.1244(c)–1 is amended by revising paragraphs (a), (b), and (c), by deleting paragraphs (d) and (e), by redesignating paragraph (f) as paragraph (d) and by deleting "after June 30, 1958," and inserting "in 1977," in lieu thereof in example (1) of subparagraph (2) of paragraph (d) as so redesignated, by redesignating paragraph (g) as paragraph (e) and by deleting "section 1244(c)(1)(E)" and inserting "section 1244(c)(1)(C)" in lieu thereof in each place that it appears in paragraph (e) as so redesignated, and by adding a new paragraph (f). These revised and added provisions read as follows:

**§ 1.1244(c)–1 Section 1244 stock defined.**

(a) *In general.* For purposes of §§ 1.1244(a)–1 to 1.1244(e)–1, inclusive—

(1) The term "pre-November 1978 stock" means stock issued after June 30, 1958, and on or before November 6, 1978.

(2) The term "post-November 1978 stock" means stock issued after November 6, 1978.

In order that stock may qualify as section 1244 stock, the requirements described in paragraphs (b) through (e) of this section must be satisfied. In addition, the requirements of paragraph (f) of this section must be satisfied in the case of pre-November 1978 stock. Whether these requirements have been met is determined at the time the stock is issued, except for the requirement in paragraph (e) of this section. Whether the requirement in paragraph (e) of this section, relating to gross receipts of the corporation, has been satisfied is determined at the time a loss is sustained. Therefore, at the time of issuance it cannot be said with certainty that stock will qualify for the benefits of section 1244.

(b) *Common stock.* Only common stock, either voting or nonvoting, in a domestic corporation may qualify as section 1244 stock. For purposes of section 1244, neither securities of the corporation covertible into common stock nor common stock convertible into other securities of the corporation are treated as common stock. An increase in the basis of outstanding stock as a result of a contribution to capital is not treated as an issuance of stock under section 1244. For definition of domestic corporation, see section 7701(a)(4) and the regulations under that section.

(c) *Small business corporation.* At the time the stock is issued (or, in the case of pre-November 1978 stock, at the time of adoption of the plan described in paragraph (f)(1) of this section) the corporation must be a "small business corporation". See § 1.1244(c)–2 for the definition of a small business corporation.

* * * * *

(f) *Special rules applicable to pre-November 1978 stock.* (1)(i) Pre-November 1978 common stock must have been issued under a written plan adopted by the corporation after June 30, 1958, and on or before November 6, 1978, to offer only this stock during a period specified in the plan ending not later than 2 years after the date the plan is adopted. The 2-year requirement referred to in the preceding sentence is met if the period specified in the plan is based upon the date when, under the rules or regulations of a Government agency relating to the issuance of the stock, the stock may lawfully be sold, and it is clear that this period will end, and in fact does end, within 2 years after the plan is adopted. The plan must specifically state, in terms of dollars, the maximum amount to be received by the corporation in consideration for the stock to be issued under the plan. See § 1.1244(c)–2 for the limitation on the amount that may be received by the corporation under the plan.

(ii) To qualify, the pre-November 1978 stock must be issued during the period of the offer, which period must end not later than two years after the date the plan is adopted. Pre-November 1978 stock which is subscribed for during the period of the plan but not issued during this period cannot qualify as section 1244 stock. Pre-November 1978 stock issued on the exercise of a stock right, stock warrant, or stock option (which right, warrant, or option was not outstanding at the time the plan was adopted) will be treated as issued under a plan only if the right, warrant, or option is applicable solely to unissued stock offered under the plan and is exercised during the period of the plan.

(iii) Pre-November 1978 stock subscribed for prior to the adoption of the plan, including stock subscribed for prior to the date of the corporation comes into existence, may be considered issued under a plan adopted by the corporation if the stock is not in fact issued prior to the adoption of the plan.

(iv) Pre-November 1978 stock issued for a payment which, alone or together with prior payments, exceeds the maximum amount that may be received under the plan, is not considered issued under the plan, and none of the stock can qualify as section 1244 stock. See § 1.1244(c)–2(b) for a different rule with respect to post-November 1978 stock.

(2) Pre-November 1978 stock does not qualify as section 1244 stock if at the time of the adoption of the plan under which it is issued there remains unissued any portion of a prior offering of stock. Thus, if any portion of an outstanding offering of common or preferred stock is unissued at the time of the adoption of the plan, stock issued under the plan will not qualify as section 1244 stock. An offer is outstanding unless and until it is withdrawn by affirmative action before the plan is adopted. Stock rights, stock warrants, stock options, or securities convertible into stock, that are outstanding at the time the plan is adopted, are considered prior offerings. The authorization in the corporate charter to issue stock different from stock offered under the plan or in excess

of stock offered under the plan is not of itself a prior offering.

(3)(i) Even though the plan satisfies the requirements of subparagraph (1) of this paragraph (f), if another offering of pre-November 1978 stock is made by the corporation subsequent to, or simultaneous with, the adoption of the plan, pre-November 1978 stock issued under the plan after the other offering does not qualify as section 1244 stock. The issuance of stock options, stock rights, or stock warrants, at any time during the period of the plan, that are exercisable on stock other than stock offered under the plan, is considered a subsequent offering. Similarly, the issuance of pre-November 1978 stock other than that offered under the plan is considered a subsequent offering. Because stock issued upon exercise of a conversion privilege is stock issued for a security, and stock issued under a stock option granted in whole or in part for services is not issued for money or other property, the issuance of securities with a conversion privilege and the issuance of such a stock option are subsequent offerings, because the conversion privilege and the stock option are exercisable with respect to stock other than that which may properly be offered under the plan. Pre-November 1978 stock issued under the plan before a subsequent offering is not disqualified because of the subsequent offering. The rule of the subparagraph, together with the rule of subparagraph (2) of this paragraph (f), relating to offers prior to the adoption of the plan, limits pre-November 1978 section 1244 stock to stock issued by the corporation during a period when any stock issued by it must have been issued under the plan.

(ii) Any modification of a plan that changes the offering to include preferred stock, or that increases the amount of pre-November 1978 stock that may be issued under the plan to such an extent that the requirements of paragraph (c) of this section would not have been satisfied if determined with reference to this amount as of the date the plan was initially adopted, or that extends the period of time during which stock may be issued under the plan to more than 2 years from the date the plan was initially adopted, is considered a subsequent offering, and no stock issued after this offering may qualify. However, a corporation may withdraw a plan and adopt a new plan to issue stock. To determine whether stock issued under this new plan may qualify, this paragraph (f) must be applied with respect to the new plan as of the date of its adoption. For example, amounts received for stock under the prior plan must be taken into acount in determining whether the statutory requirements relating to definition of small business corporation are satisfied. In applying the requirements of paragraph (c) of this section, reference should be made to equity capital as of the date the new plan is adopted. The same principles apply if the period of the initial plan expires and the corporation adopts a new plan.

Par. 6. Section 1.1244 (c)–2 is amended by revising paragraphs (a), (b), and (c), by redesignating paragraph (d) as subparagraph (3) and adding it subparagraph (2) of revised paragraph (c), by substituting "this paragraph (c)" for "this section" in the first sentence of paragraph (c)(3) as so redesignated, by substituting "subparagraph (1) of this paragraph (c)" for "paragraph (b) of this section" in examples (1), (2), and (3) thereof, by inserting "pre-November 1978" after "Notwithstanding the redemptions," in example (4) thereof, and by deleting "of section 1244 (c)(2)(A)" in example (4) thereof. These revised provisions read as follows:

**§ 1.1244 (c)–2 Small business corporation defined.**

(a) *In general.* A corporation is treated as a small business corporation if it is a domestic corporation that satisfies the requirements described in paragraphs (b) or (c) of this section. The requirements of paragraphs (b) of this section apply if a loss is sustained on post-November 1978 stock. The requirements of paragraph (c) of this section apply if a loss is sustained on pre-November 1978 stock. If losses are sustained on both pre-November 1978 stock and post-November 1978 stock in the same taxable year, the requirements of paragraph (b) of this section are applied to the corporation at the time of the issuance of the stock (as required by paragraph (b) in the case of a loss on post-November 1978 stock) in order to determine whether the loss on post-November 1978 stock qualifies as a section 1244 loss, and the requirements of paragraph (c) of this section are applied to the corporation at the time of the adoption of the plan (as required by paragraph (c) in the case of a loss on pre-November 1978 stock) in order to determine whether the loss on pre-November 1978 stock qualifies as a section 1244 loss. For definition of domestic corporation, see section 7701 (a) (4) and the regulations under that section.

(b) *Post-November 1978 stock*—(1) *Amount received by corporation for stock.* Post-1958 capital of a small business corporation may not exceed $1,000,000. For purposes of this paragraph the term "post-1958 capital" means the aggregate dollar amount received after June 30, 1958, by the corporation for its stock, as a contribution to capital, and as paid-in surplus. If the $1,000,000 limitation is exceeded, the rules of subparagraph (2) of this paragraph (b) apply. In making these determinations, (i) property is taken into account at its adjusted basis to the corporation (for determining gain) as of the date received by the corporation, and (ii) this aggregate amount is reduced by the amount of any liability to which the property was subject and by the amount of any liability assumed by the corporation at the time the property was received. Post-1958 capital is not reduced by distributions to shareholders, even though the distributions may be capital distributions.

(2) *Requirement of designation in event $1,000,000 limitation exceeded.* (i) If post-1958 capital exceeds $1,000,000, the corporation shall designate as section 1244 stock certain shares of post-November 1978 common stock issued for money or other property in the transitional year. For purposes of this paragraph, the term "transitional year" means the first taxable year in which post-1958 capital exceeds $1,000,000 and in which the corporation issues stock. This designation shall be made in accordance with the rules of subdivision (iii) of this paragraph (b) (2). The amount received for designated stock plus all other post-1958 capital (determined at the end of transitional year) shall not exceed $1,000,000.

(ii) Post-November 1978 common stock issued for money or other property before the transitional year qualifies as section 1244 stock without affirmative designation by the corporation. Post-November 1978 common stock issued after the transitional year does not qualify as section 1244 stock.

(iii) The corporation shall make the designation required by subdivision (i) of this paragraph (b) (2) not later than the 15th day of the third month following the close of the transitional year. However, in the case of post-November 1978 common stock issued on or before [date of publication of this notice as a final treasury decision] the corporation shall make the required designation by [60 days after date of such publication]. The designation shall be made by entering the numbers of the qualifying share certificates on the corporation's records. If the shares do not bear serial numbers or other identifying numbers or letters, or are not represented by share certificates, the corporation shall make

an alternative designation in writing at the time of issuance, or, in the case of post-November 1978 common stock issued on or before [date of publication of this notice as a final treasury decision], by [60 days after such date of publication]. This alternative designation may be made in any manner sufficient to identify the shares qualifying for section 1244 treatment. If the corporation fails to make a designation by share certificate number or an alternative written designation as described, the rules of subparagraph (3) of this paragraph (b) apply.

(3) *Allocation of section 1244 benefit in event corporation fails to designate qualifying shares.* If a corporation issues post-November 1978 stock in the transitional year and fails to designate certain shares of post-November 1978 common stock as section 1244 stock in accordance with the rules of subparagraph (2) of this paragraph (b), the following rules apply:

(i) Section 1244 treatment is extended to losses sustained on post-November 1978 common stock issued for money or other property in taxable years before the transitional year and is withheld from losses sustained on post-November 1978 stock issued in taxable years after the transitional year.

(ii) Post-1958 capital received before the transitional year is subtracted from $1,000,000.

(iii) Subject to the annual limitation described in § 1.1244 (b)–1, an ordinary loss on post-November 1978 common stock issued for money or other property in the transitional year is allowed in an amount which bears the same ratio to the total loss sustained by the individual as—

(A) The amount described in § 1.1244 (c)–2(b) (3) (ii) bears to

(B) The total amount of money and other property received by the corporation in exchange for stock, as a contribution to capital, and as paid-in surplus in the transitional year.

(4) *Examples.* The provisions of this paragraph (b) may be illustrated by the following examples:

*Example (1).* On December 1, 1978, Corporation W, a newly-formed corporation, issues 10,000 shares of common stock at $125 a share for an amount (determined under subparagraph (1) of this paragraph (b)) of money and other property totaling $1,250,000. The board of directors specifies that 8,000 shares are section 1244 stock and records the certificate numbers of the qualifying shares in its minutes. Because Corporation W issued post-November 1978 common stock in exchange for money and other property exceeding $1,000,000, but has designated shares of stock as section 1244 stock and the designated shares were issued in exchange for money and other property not exceeding $1,000,000 (8,000 shares × $125 price per share = $1,000,000), the 8,000 designated shares qualify as section 1244 stock.

*Example (2).* Corporation X comes into existence on June 1, 1979. On June 10, 1979, Corporation X issues 2,500 shares of common stock at $250 per share to shareholder A and 2,500 shares of common stock at $250 per share to shareholder B. By written agreement dated September 1, 1981, shareholder A and shareholder B determine that 1,500 of shareholder A's shares and all of shareholder B's shares will be treated as section 1244 stock. Although shareholder A's 1,500 shares and shareholder B's 2,500 shares were issued for money and other property not exceeding $1,000,000 (4,000 shares × $250 price per share = $1,000,000, these 4,000 shares do not qualify as section 1244 stock under the rules of subparagraph (2) of this paragraph (b) for three reasons: The agreement of September 1, 1979, (i) did not identify which 1,500 of shareholder A's 2,500 shares were intended to qualify for section 1244 treatment, (ii) was made by the shareholders and not by Corporation X, and (iii) was made later than the 15th day of the third month following the close of the transitional year. However, certain of the shares issued by Corporation X may qualify as section 1244 stock under the rules of subparagraph (3) of this paragraph (b). See example (4).

*Example (3).* On December 1, 1980, Corporation Y issues common stock to shareholder A in exchange for $500,000 in cash. On August 1, 1981, Corporation Y issues common stock to shareholder B in exchange for property having an adjusted basis to Corporation Y of $500,000. On December 1, 1981, a civic group in a nearby community contributes a tract of land having a fair market value of $250,000 to Corporation Y for the purpose of inducing the corporation to relocate its business in that community. Corporation Y is a calendar year corporation. On February 15, 1982, it designates one-half of shareholder B's stock as section 1244 stock by entering the numbers of the qualifying certificates on the corporation's records. The designation made by Corporation Y is effective because it identifies which shares of its stock qualify for section 1244 treatment, was made in writing before the 15th day of the third month following the close of the transitional year (1981), and because the amount received for designated stock plus remaining post–1958 capital (determined at the end of the transitional year) does not exceed $1,000,000.

*Example (4).* Corporation Z, a newly-formed corporation, issues 10,000 shares of common stock at $200 per share on July 1, 1979. In exchange for its stock Corporation Z receives property (other than stock or securities) having a basis to the corporation of $400,000, and $1,600,000 in cash, for a total of $2,000,000. Corporation Z fails to designate any of the issued shares as section 1244 stock. Shareholder C purchases 2,500 shares of the 10,000 shares of Corporation Z stock for $500,000 on July 1, 1979. Subsequently, shareholder C sells the 2,500 shares for $400,000. Shareholder C may treat $50,000 of the $100,000 loss as an ordinary loss under section 1244. The amount of that loss is computed under the rule of subparagraph (3) of this paragraph (b) as follows:

$$\text{X [C's section 1244 loss]} \quad 1{,}000{,}000 \text{ [1,000,000 - 0 = \$1,000,000]}$$

$$\frac{\$100{,}000 \text{ [C's total loss]}}{2{,}000{,}000 \text{ [total amount received by Corporation Z]}} = \$1{,}000{,}000$$

$$X = 50{,}000$$

The remaining $50,000 is not treated as an ordinary loss under section 1244.

*Example (5).* (i) Corporation V, a newly-formed corporation, issues common stock to shareholder A and shareholder B on June 15, 1980, in exchange for $800,000 in cash ($400,000 from A and $400,000 from B). On September 15, 1981, the corporation issues common stock to shareholder C in exchange for $600,000 in cash. On January 1, 1982, common stock is issued to shareholder D in exchange for $100,000 in cash. Corporation V fails to designate any of the issued shares as section 1244 stock. A, B, C, and D subsequently sell their Corporation Y stock at a loss.

(ii) Subject to the annual limitation discussed in § 1.1244 (b)–1, A and B may treat their entire loss as an ordinary loss under section 1244. D may not treat any part of his loss as an ordinary loss under section 1244. Subject to the annual limitation, one-third of the loss sustained by shareholder C is treated as an ordinary loss under section 1244. These results are calculated under the rules of subparagraph (3) of this paragraph (b) as follows: First, section 1244 treatment is extended to post-November 1978 stock issued to A and B in 1980, a taxable year before the transitional year (1981); section 1244 treatment is withheld from the stock issued to D in 1982, a taxable year after the transitional year. Second $800,000 the amount of post-1958 capital received in taxable years before the transitional year, is subtracted from $1,000,000 to leave $200,000. Third, subject to the annual limitation, an ordinary loss is allowed to C in an amount which bears the same ratio to his total loss as the amount calculated in the preceding sentence ($200,000) bears to the total amount received by the corporation in the transitional year in exchange for stock, as a contribution to capital, or as paid-in surplus ($800,000).

(c) *Pre-November 1978 stock*—(1) *Amount received by corporation for stock.* At the time of the adoption of the plan, the sum of the aggregate dollar amount to be paid for pre-November 1978 stock that may be offered under the plan plus the aggregate amount of money and other property that has been received by the corporation after June

30, 1958, and on or before November 6, 1978, for its stock, as a contribution to capital by its shareholders, and as paid-in surplus must not exceed $500,000. In making these determinations (i) property is taken into account at its adjusted basis to the corporation (for determining gain) as of the date received by the corporation, and (ii) this aggregate amount is reduced by the amount of any liability to which the property was subject and by the amount of any liability assumed by the corporation at the time the property was received. For purposes of the $500,000 test, the total amount of money and other property received for stock, as a contribution to capital, and as paid-in surplus is not reduced by distributions to shareholders, even though the distributions may be capital distributions. Thus, once the total amount of money and other property received after June 30, 1958, reaches $500,000, the corporation is precluded from subsequently issuing pre-November 1978 stock. For a different rule that applies to post-November 1978 stock, see § 1.1244(c)-2(b).

(2) *Equity capital.* The sum of the aggregate dollar amount to be paid for pre-November 1978 stock that may be offered under the plan plus the equity capital of the corporation (determined on the date of the adoption of the plan) may not exceed $1,000,000. For this purpose, equity capital is the sum of the corporation's money and other property (in an amount equal to its adjusted basis for determining gain) less the amount of the corporation's indebtedness to persons other than its shareholders.

**§ 1.1244(d) [Deleted]**

Par. 7. Section 1.1244(d) and the historical note are deleted.

**§ 1.1244(d)-3 [Amended]**

Par. 8. Section 1.1244(d)-3 (relating to stock dividends, recapitalizations, changes in name, etc.) is amended by striking out "subparagraph (E)" and inserting "subparagraph (C)" in lieu thereof in the last sentence of paragraph (b)(1), by striking out "paragraphs (1)(E)" and inserting "paragraphs (1)(C)" in lieu thereof in the first sentence of paragraph (d)(2), and by striking out "(2)(A)" and inserting "(3)(A)" in lieu thereof in the first sentence of paragraph (d)(2).

Par. 9. Section 1.1244(d)-4 is amended to read as follows:

**§ 1.1244(d)-4 Net operating loss deduction.**

(a) *General rule.* For purpose of section 172, relating to the net operating loss deduction, any amount of loss that is treated as an ordinary loss under section 1244 (taking into account the annual dollar limitation of that section) shall be treated as attributable to the trade or business of the taxpayer. Therefore, this loss is allowable in determining the taxpayer's net operating loss for a taxable year and is not subject to the application of section 172(d)(4), relating to nonbusiness deductions. A taxpayer may deduct the maximum of ordinary loss permitted under section 1244(b) even though all or a portion of the taxpayer's net operating loss carryback or carryover for the taxable year was, when incurred, a loss on section 1244 stock.

(b) *Example.* The provisions of this section may be illustrated by the following example:

*Example.* A, a single individual, computes a net operating loss of $15,000 for 1980 in accordance with the rules of § 1.172-3, relating to net operating loss in case of a taxpayer other than a corporation. Included within A's computation of this net operating loss is a deduction arising under section 1244 for a loss on small business stock. A had no taxable income in 1977, 1978, or 1979. Assume that A can carry over the entire $15,000 loss under the rules of section 172. In 1981 A has gross income of $75,000 and again sustains a loss on section 1244 stock. The amount of A's 1981 loss on section 1244 stock is $50,000. A may deduct the full $50,000 as an ordinary loss under section 1244 and the full $15,000 as a net operating loss carryover in 1981.

**§ 1.1244(e) [Deleted]**

Par. 10. Section 1.1244 (e) and the historical note are deleted.

Par. 11. Paragraph (a) of § 1.1244 (e)-1 is amended to read as follows:

**§ 1.1244 (e)-1 Records to be kept and information to be filed with the return.**

(a) *By the corporation*—(1) *Mandatory records.* A plan to issue pre-November 1978 stock must appear upon the records of the corporation. Any designation of post-November 1978 stock under paragraph (c)(2) of § 1.1244 (c)-2 also must appear upon the records of the corporation.

(2) *Discretionary records.* In order to substantiate an ordinary loss deduction claimed by its shareholders, the corporation should maintain records showing the following:

(i) The persons to whom stock was issued, the date of issuance to these persons, and a description of the amount and type of consideration received from each;

(ii) If the consideration received is property, the basis in the hands of the shareholder and the fair market value of the property when received by the corporation;

(iii) The amount of money and the basis in the hands of the corporation of other property received for its stock, as a contribution to capital, and as paid-in surplus;

(iv) Financial statements of the corporation, such as its income tax returns, that identify the source of the gross receipts of the corporation for the period consisting of the five most recent taxable years of the corporation, or, if the corporation has not been in existence for 5 taxable years, for the period of the corporation's existence;

(v) Information relating to any tax-free stock dividend made with respect to section 1244 stock and any reorganization in which stock is transferred by the corporation in exchange for section 1244 stock; and

(vi) With respect to pre-November 1978 stock:

(A) Which certificates represent stock issued under the plan;

(B) The amount of money and the basis in the hands of the corporation of other property received after June 30, 1958, and before the adoption of the plan, for its stock, as a contribution to capital, and as paid-in surplus; and

(C) The equity capital of the corporation on the date of adoption of the plan.

* * * * *

**§ 1.1563-3 [Amended]**

Par. 10. Section 1.1563-3 (relating to rules for determining stock ownership) is amended by striking out "paragraph (g)(1)(ii)" and inserting "paragraph (e)(1)(ii)" in its place in paragraph (b)(5)(iii) thereof.

**§ 11.414 (c)-4 [Amended]**

Par. 11. Section 11.414 (c)-4 (relating to rules for determining ownership) is amended by striking out "§ 1.1244 (c)-1 (g)(1)" and inserting in its place "§ 1.1244 (c)-1 (e)(1)" in paragraph (b)(5)(iii) thereof.

Jerome Kurtz,

*Commissioner of Internal Revenue.*

[FR Doc. 29087 Filed 9-18-79; 8:45 am]

BILLING CODE 4830-01-M

## ENVIRONMENTAL PROTECTION AGENCY

**[40 CFR Part 65]**

**[FRL 1324-7]**

## Proposed Delayed Compliance Order for Great Salt Lake Minerals & Chemicals Corp., Ogden, Utah

**AGENCY:** Environmental Protection Agency.

**ACTION:** Withdrawal of notice of proposed rulemaking.

**SUMMARY:** The purpose of this notice is to withdraw a prior Federal Register notice proposing a Delayed Compliance Order for Great Salt Lake Minerals and Chemicals Corporation, Ogden, Utah. This action is being taken because compliance with the State Implementation Plan provisions covered by the proposed Order has been ordered under Section 113(a)(1) of the Clean Air Act.

**DATE:** This withdrawal is effective September 19, 1979.

**FOR FURTHER INFORMATION CONTACT:** Helen M. Knoll, Attorney-Advisor, Enforcement Division, EPA, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, telephone (303) 837–4812.

**SUPPLEMENTARY INFORMATION:** A Federal Register notice published at 44 FR 18530, March 28, 1979, solicited public comments and offered the opportunity to request a public hearing on a proposed Delayed Compliance Order to be issued by EPA to Great Salt Lake Minerals and Chemicals Corporation at Ogden, Utah. Great Salt Lake Minerals and Chemicals Corporation has been ordered under Section 113(a)(1) to achieve compliance with the Utah State Implementation Plan regulations covered by the proposed Delayed Compliance Order.

In consideration of the foregoing, the proposal published in the Federal Register 44 FR 18530 on March 28, 1979, entitled "Proposed Delayed Compliance Order for Great Salt Lake Minerals and Chemicals Corporation, Ogden, Utah", is hereby withdrawn.

Dated: September 7, 1979.

Roger L. Williams,

*Regional Administrator.*

[FR Doc. 79-29097 Filed 9-18-79; 8:45 am]

BILLING CODE 6560-01-M

---

[40 CFR Part 250]

[FRL 1320-4]

## Statistical Test; Hazardous Waste Guidelines and Regulations

**AGENCY:** Environmental Protection Agency.

**ACTION:** Amendment to proprosed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is today proposing to change the statistical test used in its proposed hazardous waste regulations to determine whether a landfill or surface impoundment is causing statistically significant degradation of groundwater or water in the zone of aeration. The new test is both conceptually and computationally simpler to apply than the test in the original proposed rule.

**DATE:** Comments are due October 19, 1979.

**ADDRESSES:** Comments should be addressed to John P. Lehman, Director, Hazardous and Industrial Waste Division, Office of Solid Waste (WH–565), U.S. Environmental Protection Agency, Washington, D.C. 20460. Communications should identify the regulatory docket number "Section 3004".

The official docket for this reproposal, as well as EPA's other hazardous waste regulations, is available at: Room 2439K, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. George A. Garland, 202/755–9190, Office of Solid Waste, (WH–565), U.S. Environmental Protection Agency, Washington, D.C. 20460 (technical information); Mr. Michael J. Shannon, 202/755–9190, Office of Solid Waste (WH–565), U.S. Environmental Protection Agency, Washington, D.C. 20460 (economic, environmental, and regulatory impacts).

**SUPPLEMENTARY INFORMATION:** On December 18, 1978, EPA published proposed standards for owners/operators of hazardous waste treatment, storage and disposal facilities under Section 3004 of the Resource Conservation and Recovery Act (RCRA), as amended (43 FR 58982–59022).[1] Section 250.43–8 of those proposed standards (43 FR 59005) required an owner/operator of a landfill or a surface impoundment treating, storing or disposing of hazardous waste to install, maintain, and operate a groundwater and leachate monitoring system, and to determine, based on groundwater and leachate monitoring data, whether his facility is causing a significant increase in groundwater contamination or contamination of water in the zone of aeration. In § 250.43–8(c)(4), EPA further proposed that the presence of significant contamination be determined by a directional Student's t, test at the 5 percent level of significance.

EPA is today proposing to substitute the non parametric Mann-Whitney U-test for the Student's t, test in proposed § 250.43–8(c)(4). This change is being made for the following reasons:

(1) The Mann-Whitney U-test is both conceptually and computationally simpler to apply than the Student's t test. This will facilitate implementation and use at the various monitoring sites.

(2) The Mann-Whitney U-test is non-parametric and only requires that samples be drawn from populations of independent and continuous measurements; the t-test requires both independence and continuity as well as normality of the underlying population distribution. Since the Mann-Whitney U-test does not require the underlying population distribution to be normal, it can be used in a variety of situations where violation of the normality assumption would prohibit use of the student's t statistic.

(3) In addition to the less stringent model requirements, the "power" of the Mann-Whitney U-test compares favorably with the Student's t test. When the populations are assumed only to differ in location (i.e., mean or median) the Mann-Whitney U-test is almost equal in power to the Student's t.[2]

The agency is considering requiring a minimum of seven (7) independent observations in each sample of water drawn from each monitoring well. This should provide adequate power for detecting meaningful differences in leachate concentrations.

Comments on the suitability of the Mann-Whitney U-test and the proposed sample size for the purposes stated in proposed Section 250.43–8(c) are invited.

For further information on the standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities, the reader is referred to EPA's proposed Section 3004 regulation and preamble (43 FR 58982–59016).

### Background Document

A background document has been developed in support of this supplemental proposed rule. Copies are available for review in all EPA Regional office libraries and the EPA headquarters library (Public Information

[1] EPA's proposed hazardous waste treatment, storage and disposal regulation is one of seven regulations which have been proposed by EPA over the last year and a half to implement the hazardous waste management program under Subtitle C of RCRA. A list of hazardous wastes and hazardous waste characteristics and standards for hazardous waste generators were proposed by EPA on December 18, 1978 (43 FR 58946–58981). Standards for hazardous waste transporters were proposed by EPA on April 28, 1978 (43 FR 18506–18512) and the Department of Transportation on May 25, 1978 (43 FR 29908–29916). Regulations governing the permitting of hazardous waste treatment, storage and disposal facilities and EPA approval of State hazardous waste programs were proposed on June 14, 1979 (43 FR 3244–34416).

[2] See Gibbons, *Non Parametric Statistical Inference*, McGraw-Hill, 1971, pages 143–149 for a discussion of the asymptotic relative efficiency (ARE) of Mann-Whitney U and the Student t statistics.

Reference Unit) Room 2404, Waterside Mall, 401 M Street, S.W., Washington, D.C.

**Economic, Environmental, and Regulatory Impacts**

In accordance with Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107, EPA policy as stipulated in 39 FR 37419, October 21, 1974, and Executive Order 12044, respectively, analyses of the economic, environmental, and regulatory impacts are being performed for the entirety of Subtitle C, Hazardous Waste Management. EPA does not believe that this reproposal is a major action for the purposes of Executive Order 12044, because the cost of using the Mann-Whitney U-test is not very different from the cost of using the student's t-test, and the cost of using the Student's t-test was considered in developing the draft Regulatory Analysis prepared for the entirety of Subtitle C, Hazardous Waste Management, and made available for public review on January 8, 1979. However, the cost and economic impact analysis included in the Regulatory Analysis is being revised and expanded to include the test covered by this reproposal, and that revised analysis will be completed and available to the public for review at the time of final promulgation of the entire Subtitle C regulatory package. Any data which commenters have on the cost and economic impact of using the Mann-Whitney U-test should be included in their written comments on this reproposal.

**§ 250.43-8(c)(4) [amended]**

It is proposed to further amend Title 40 CFR, Part 250, by deleting "Student's t, single-tailed test" from 40 CFR 250.43-8(c)(4), which has been proposed in 43 FR 59805 (December 18, 1978), and inserting in lieu thereof "Mann-Whitney U-test".

Dated: September 10, 1979.

Douglas M. Costle,

*Administrator.*

[FR Doc. 79-29033 Filed 9-18-79; 8:45 am]
BILLING CODE 6560-01-M

## INTERSTATE COMMERCE COMMISSION

**[49 CFR Part 1125]**

**[Ex Parte No. 293 (Sub. No. 2)]**

## Standards for Determining Rail Services Continuation Subsidies

**AGENCY:** Rail Services Planning Office, Interstate Commerce Commission.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Rail Services Planning Office (RSPO) is reopening the Standards for Determining Rail Services Continuation Subsidies (Regional Subsidy Standards) to propose an amendment which would base the assignment of fringe benefit costs for train and engine crew members on a ratio of straight-time and overtime wages paid, excluding constructive allowances.

**DATE:** Comments may be filed on or before October 15, 1979.

**ADDRESS:** An original and six copies of any comments should be mailed to: Interstate Commerce Commission, Section of Rail Services Planning, Room 7383, Washington, D.C. 20423. Attn: RSPO Subsidy Standards.

**FOR FURTHER INFORMATION CONTACT:** James R. Wells, Chief, Cost and Subsidies Branch, Section of Rail Services Planning Interstate Commerce Commission, Washington, D.C. 20423, (202) 275-0838.

**SUPPLEMENTARY INFORMATION:** RSPO maintains a set of cost and revenue determination standards (Regional Subsidy Standards) which govern the compensation received by railroads operating subsidized services over lines of the bankrupt Northeast railroads which were not conveyed to Conrail or another railroad by the Final System Plan.

RSPO monitors the operation of the branch line subsidy program governed by the Standards. In the course of this monitoring activity, RSPO has found that the current regulations may, under certain circumstances, assign fringe benefit costs to a branch line in an amount that does not reflect the costs actually incurred by the carrier.

The regulations currently assign fringe benefit costs on the ratio of branch line wage and salaries to total wage and salaries for a particular railroad activity group (such as maintenance of way or transportation). This ratio is then applied to the total fringe benefit amount for that activity to determine the amount attributable to operation of the subsidized line.

Train and engine employees engaged in the operation of certain subsidized branch lines receive substantial compensation for deadheading (travel to or from the line being served) and other constructive allowances. This additional compensation may produce a wide disparity between the total monthly compensation paid to these individuals as compared to the carrier's other train and engine employees.

This disparity in total compensation is significant because the current fringe benefit ratio is based on total earnings. Although the major portion of fringe benefit costs are based on an employee's total monthly earnings, some of the fringe benefit payments have upper limits, and are not accurately estimated by a fixed percentage applied to total earnings. For 1979, railroad retirement payments and unemployment insurance are based on maximum monthly earnings of $1,908 and $400, respectively. When an employee's monthly earnings exceed these amounts, the carrier does not incur any additional railroad retirement or unemployment insurance expense.

Because of the high proportion of these additional payments which are received by crews performing other work on the railroad, the current regulations also assign a relatively higher proportion of fringe benefit costs to the subsidized line. This assignment method is not accurate because the railroad does not incur fringe benefit costs on the total compensation received by a crew; the fringe benefits apply only to compensation up to the specified limits.

RSPO believes that a more accurate fringe benefit assignment procedure would be to assign the train and engine employee fringe benefit costs on the ratio of straight-time and overtime compensation only. This would remove constructive allowances from the compensation bases being used to develop the fringe benefit ratio. This proposed revision is designed to prevent the assignment of fringe benefit costs to branch lines in situations where the costs are not incurred.

RSPO requests comments on the proposed amendments appended to this report.

This is not a major Federal action significantly affecting the quality of the human environment.

This proposed rule is published under the authority of section 10362 of the revised Interstate Commerce Act.

Issued September 10, 1979 by: Alexander Lyall Morton, Director, Rail Services Planning Office.

By the Commission.

Agatha L. Mergenovich,

*Secretary.*

**§ 1125.8 [Amended]**

1. Section 1125.8(c)(4) is amended to read as follows:

* * * * *

(c) * * *

(4) *Transportation Fringe Benefits.* Fringe benefits shall be assigned to the branch separated between train

operations, yard operations, train and yard operations common, specialized service operations, and administrative support functions. The costs for train operations, yard operations, and train and yard operations common, shall be assigned to the branch on the ratio that the total branch straight-time and overtime salaries and wages bear to the total system straight-time and overtime salaries and wages for each activity. The costs for specialized service operations and administrative support functions shall be assigned to the branch on the ratio that the total branch salaries and wages bear to the total system salaries and wages for each activity shown below:

* * * * *

[FR Doc. 79-29013 Filed 9-18-79; 8:45 am]
BILLING CODE 7035-01-M

# Notices

Federal Register
Vol. 44, No. 183
Wednesday, September 19, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

### Committee on Rulemaking and Public Information; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Rulemaking and Public Information of the Administrative Conference of the United States, to be held in the Library of the Conference, 2120 L Street, N.W., Suite 500, Washington, D.C. This meeting will be held at 2:00 p.m. on September 19, 1979.

The purpose of this meeting is to discuss a draft report and proposed recommendations concerning the administration of the Federal Trade Commission's program for compensating public participants in Magnuson-Moss trade regulation rulemakings.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance of the meeting. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information, contact Stephen L. Babcock (202–254–7020). Minutes of the meeting will be available on request.

Richard K. Berg,
*Executive Secretary.*
September 13, 1979.
[FR Doc. 79–28991 Filed 9–18–79; 8:45 am]
BILLING CODE 6110–01–M

## CIVIL AERONAUTICS BOARD

[Docket No. 35934; Order 79–9–59]

### TWA's Application for New York-San Diego Authority

**AGENCY:** Civil Aeronautics Board.

**ACTION:** Notice of Order 79–9–59 (Trans World Airlines, Subpart Q Proceeding, Docket 35934).

**SUMMARY:** The Board is issuing Order 79–9–59 to show cause why it should not make final its tentative findings with respect to TWA's application for New York-San Diego authority filed under our expedited procedures (Subpart Q). Specifically the Board tentatively finds that it is consistent with the public convenience and necessity to award TWA the authority it seeks.

**DATES:** Objections: All interested persons having objections to the Board issuing the proposed authority shall file and serve upon all persons listed below, no later than October 29, 1979, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

**ADDRESSES:** Objections should be filed in Docket 35934, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

**FOR FURTHER INFORMATION CONTACT:** James F. Adley, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673–5412.

**SUPPLEMENTARY INFORMATION:** Objections should be served upon all persons listed in the service list of Docket 35934.

By the Civil Aeronautics Board: September 13, 1979.

Phyllis T. Kaylor,
*Secretary.*
[FR Doc. 79–29078 Filed 9–18–79; 8:45 am]
BILLING CODE 6320–01–M

## COMMISSION ON CIVIL RIGHTS

### Connecticut Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut Advisory Committee of the Commission will convene at 6:00 p.m. and will end at 9:00 p.m. on October 4, 1979, at the Sonesta Hotel, 5 Constitution Plaza, Hartford, Connecticut.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is to discuss the Committee study of Community Development Block Grant Program.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., September 13, 1979.

John I. Binkley,
*Advisory Committee Management Officer.*
[FR Doc. 79–28956 Filed 9–18–79; 8:45 am]
BILLING CODE 6335–01–M

### Maine Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine Advisory Committee of the Commission will convene at 7:30 p.m. and will end at 10:00 p.m. on October 2, 1979, at the Maine Teachers Association Building, Augusta, Maine.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is to discuss: (1) Arrangements for release of report and plan programs for FY 1980, (2) joint project with Maine Human Rights Commission, and (3) proposed repeal of State constitutional literacy requirement to vote.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., September 13, 1979.

John I. Binkley,
*Advisory Committee Management Officer.*
[FR Doc. 79–28957 Filed 9–18–79; 8:45 am]
BILLING CODE 6335–01–M

## Minnesota Advisory Committee; Amended Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Minnesota Advisory Committee of the Commission originally scheduled for September 27–28, 1979, (FR Doc. 79–26675 on page 50388) has been changed.

The meeting now will be held on September 26–28, 1979. On September 26, 1979 the meeting will convene at 2:30 P.M. and will end at 7:00 P.M. at the Leamington Hotel, 1014 3rd Avenue, Minneapolis, Minnesota 55404. The time and place for the meetings on September 27–28, 1979 will remain the same.

Dated at Washington, D.C., September 14, 1979.

John I. Binkley,

*Advisory Committee Management Officer.*

[FR Doc. 79-29023 Filed 9-18-79; 8:45 am]

BILLING CODE 6335-01-M

## Virginia Advisory Committee; Amended Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Virginia Advisory Committee of the Commission originally scheduled to be held in Morton's Tea Room in Richmond, Virginia (FR Doc. 79–27049 on page 50883), has been changed.

The meeting now will be held at the John Marshall Hotel in the Lee Room, 5th and Franklin Streets, Richmond, Virginia. The date and time will remain the same.

Dated at Washington, D.C., September 14, 1979.

John I. Binkley,

*Advisory Committee Management Officer.*

[FR Doc. 79-29024 Filed 9-18-79; 8:45 am]

BILLING CODE 6335-01-M

# DEPARTMENT OF COMMERCE

## Bureau of the Census

## Annual Surveys in Manufacturing Area; Correction

In FR Doc. 79–22677, at page 43032, appearing in the issue of Monday, July 23, 1979, correct page 43032 to read as follows:

Annual surveys proposed to be initiated or continued for the year 1979.

As Appeared

Major Group 35—MACHINERY, EXCEPT ELECTRICAL

Internal combustion engines
Tractors, except garden tractors
Farm machines and equipment
Mining machinery and mineral processing equipment
Refrigeration and air-conditioning equipment, including warm air furnaces
Computers and office and accounting machines
Pumps and compressors
Selected industrial air pollution control equipment
Construction machinery
Anti-friction bearings

Should Read

Major Group 35—MACHINERY, EXCEPT ELECTRICAL

Internal combustion engines
Tractors, except garden tractors
Farm machines and equipment
Mining machinery and mineral processing equipment
Refrigeration and air-conditioning equipment, including warm air furnaces
Computers and office and accounting machines
Pumps and compressors
Selected industrial air pollution control equipment
Construction machinery
Anti-friction bearing
Vending machines

The following annual surveys should have been included:

Major Group 20—FOOD AND KINDERED PRODUCTS

Confectionery sales and distribution

Major Group 25—FURNITURE AND FIXTURES

Manufacturers' shipments of office furniture

Dated: September 14, 1979.

Vincent P. Barabba,

*Director, Bureau of the Census.*

[FR Doc. 79-29032 Filed 9-18-79; 8:45 am]

BILLING CODE 3510-07-M

## National Technical Information Service

## Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $4.00 ($8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

Douglas J. Campion,

*Patent Program Coordinator, National Technical Information Service.*

U.S. Department of the Air Force, AF/JACP, 1900 Half Street, S.W., Washington, D.C. 20324.

Patent 4,149,166: Doppler Countermeasure Device; filed May 9, 1961; patented Apr. 10, 1979: not available NTIS.

Patent 4,150,291: Nondestructive Tester for Fiberglass-Aluminum Honeycomb Structures; filed Dec. 23, 1977; patented Apr. 17, 1979: not available NTIS.

Patent 4,150,540: Rocket Nozzle System; filed Apr. 14, 1977; patented Apr. 24, 1979: not available NTIS.

U.S Department of Agriculture, Research Agreements & Patent Branch, General Services Division, Federal Bldg., Agricultural Research Service, Hyattsville, Md. 20782.

Patent application 6–008,129: Improved Abrasion Resistance and Strength of Cotton-Containing Fabric Made Resilient with N-Methylolacrylamide-Type Reagent; filed Jan. 31, 1979.

Patent application 6–008,130: Process for Producing Durable-Press Cotton Fabrics with Improved Balances of Textile Properties; Filed Jan. 31, 1979.

Patent application 6–008,814: Insect Repellents; filed Feb. 2, 1979.

Patent application 6–008,815: Insect Repellents; filed Feb. 2, 1979.

Patent application 6–014,407: Lint Cleaning Apparatus for Automatic Control of Cotton Quality; filed Feb. 23, 1979.

Patent application 6–017,001: A Process for Producing a Powdered Flavoring Material; filed Mar. 2, 1979

Patent application 6–018, 084: Antibacterial Fatty Anilides; filed Mar. 6, 1979.

Patent application 6–031,706: Ultra-Black Coating Due to Surface Morphology; filed Apr. 20, 1979.

Patent application 935,217: Serum Growth Materials; filed Aug. 21, 1978.

U.S. Department of Energy, Assistant General Counsel for Patents, Washington, D C. 20545.

Patent 4,088,155: Non-Plugging Pressure Tap; filed Oct. 17, 1973; patented May 9, 1978: not available NTIS

Patent 4,106,574: Method for Establishing High Permeability Flow Path between Boreholes; filed July 7, 1977; patented Aug. 15, 1978: not available NTIS.

Patent 4,109,863: Apparatus for Ultrasonic Nebulization; filed Aug. 17, 1977; patented Aug. 29, 1978: not available NTIS.

Patent 4,120,565: Prisms with Total Internal Reflection as Solar Reflectors; filed June 16, 1977: patented Oct. 17, 1978: not available NTIS.

U.S. Department of Health, Education, and Welfare, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20205.

Patent application 969,570: Micro-Scale Countercurrent Chromatograph; filed December 14, 1978.

U.S. Department of the Interior, Branch of Patents, 18th and C Streets, N.W., Washington, D.C. 20240.

Patent application 6-001,818: Electroplating with Ni-Cu Alloy; filed Jan. 8, 1979.
Patent application 6-006,137: Froth Flotation Using Lanolin Modifier; filed Jan. 24, 1979.
Patent application 6-009,567: Gas Explosion Suppressants; filed Feb. 5, 1979.
Patent application 6-011,292: Dilution Stable Water Based Magnetic Fluids; filed Feb. 12, 1979.
Patent application 6-014,173: Improvement in Process for Backwashing Reverse Osmosis and Ultrafiltration Membranes; filed Feb. 22, 1979.
Patent application 964,416: Method of Determining Gas Leakage Through a Mine Stopping; filed Nov. 28, 1978.
Patent application 974,399: Method for Producing Molybdic Trioxide from Molybdenite Concentrates; filed Dec. 29, 1978.
Patent 4,138,465: Selective Recovery of Nickel, Cobalt, Manganese from Sea Nodules with Sulfurous Acid; filed Dec. 13, 1977; patented Feb. 6, 1979: not available NTIS.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 6-013,100: A Non-Reversible Valve Assembly; filed Feb. 21, 1979: not available NTIS.
Patent application 6-004,516: Cascaded Digital Cancelers; filed Jan. 18, 1979.
Patent application 6-006,825: Linked-Spar Motion-Compensated Lifting System; filed Jan. 26, 1979.
Patent application 6-007,285: Ambulator Drive Mechanism; filed Jan. 29, 1979.
Patent application 6-007,524: Cooling Arrangement for Plug-in Module Assembly; filed Jan. 29, 1979.
Patent application 6-011,339: Fast Fourier Transforms Spectral Analysis System Employing Adaptive Window; filed Feb. 12, 1979.
Patent application 6-013,719: Radiation Transmissive Housing Having a Heated Load Bearing Gasket; filed Feb. 21, 1979.
Patent application 6-015,076: Noise Abating Sleeve; filed Feb. 26, 1979.
Patent application 6-015,571: Ultrasonic Wire-Bonding Apparatus for Negating Torsional Forces Present in a Transversely-Driven Wire-Bonding Tool; filed Feb. 26, 1979.
Patent application 6-024,147: Flood Valve; filed Mar. 26, 1979.
Patent application 6-028,478: Molten Metal-Liquid Explosive Device; filed April 9, 1979.
Patent application 909,326: An Inertial Guidance System for Vertically Launched Missiles Without Roll Control; filed May 25, 1978.
Patent application 969,901: Flow Control System with Density Compensation; filed Dec. 15, 1979.
Patent application 972,133: Aircraft Launcher; filed Dec. 21, 1979.
Patent application 974,154: Electric Wind Generator; filed Dec. 28, 1978.
Patent application 974,155: Turbine Engine Cold Temperature Starting System; filed Dec. 28, 1978.
Patent 4,126,497: Double-Base Nitrocellulose Propellant; filed Dec. 13, 1973; patented Nov. 21, 1978: not available NTIS.
Patent 4,133,044: Failure-Resistant Pseudo-Nonvolatile Memory; filed Feb. 28, 1978; patented Jan. 2, 1979: Not available NTIS.
Patent 4,137,712: Fluidic Combustion Control of a Solid Fuel Ramjet; filed Oct. 11, 1977; patented Feb. 6, 1979: not available NTIS.
Patent 4,137,770: Electronic Thermostat; filed Dec. 5, 1977; patented Feb. 6, 1979: not available NTIS.
Patent 4,143,400: Real-Time Optical Mapping System; filed Mar. 3, 1977; Patented Mar. 6, 1979: not available NTIS.

National Aeronautics and Space Administration, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 6-023,437: Common Data Buffer System; filed Mar. 23, 1979.
Patent application 6-032,305: High Acceleration Cable Deployment System; filed Apr. 23, 1979.
Patent application 6-032,307: A Heat Exchanger and Method of Making; filed Apr. 23, 1979.
Patent application 6-034,529: Diced Tile Thermal Protection for Spacecraft; filed Apr. 27, 1979.
Patent application 6-034,531: Urine Collection Apparatus; filed Apr. 27, 1979.
Patent application 6-037,194: Centrifugal-Reciprocating Compressor; filed May 8, 1979.
Patent application 6-041,142: Pseudonoise Code Tracking Loop; filed May 21, 1979.
Patent application 6-041,145: Electrophotolysis Oxidation System for Measurement of Organic Concentration in Water; filed May 21, 1979.
Patent 4,148,452: Filtering Technique Based on High-Frequency Plant Modeling for High-Gain Control; filed Dec. 8, 1977; patented Apr. 10, 1979: not available NTIS.
Patent 4,151,456: Voltage Regulator for Battery Power Source; filed Mar. 9, 1978; patented Apr. 24, 1979: not available NTIS.
Patent 4,153,134: Underwater Seismic Source; filed Sep. 6, 1977; patented May 8, 1979: not available NTIS.
Patent 4,153,818: Telephone Multiline Signaling Using Common Signal Pair; filed June 23, 1978; patented May 8, 1979: not available NTIS.

[FR Doc. 79-29050 Filed 9-18-79; 8:45 am]

BILLING CODE 3510-04-M

## National Oceanic and Atmospheric Administration

### Gulf of Mexico Fishery Mangement Council; Public Meeting

**AGENCY:** National Marine Fisheries Service, NOAA.

**SUMMARY:** The Gulf of Mexico Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to review status reports on development of fishery management plans; consider foreign fishing applications, if any; and conduct other fishery management business.

**DATES:** The meeting will convene on Monday, October 1, 1979, at 1:30 p.m., until 2 p.m., for approval of committee structure. The general session of the Council will convene on Tuesday, October 2, 1979, a 1:30 p.m., and continue to approximately 5 p.m., and on Wednesday, October 3, 1979, reconvene at 8:30 a.m., and adjourn at approximately 5 p.m. The meeting is open to the public.

**ADDRESS:** The meeting will take place in the Meeting Room of Gaido's Motor Inn, 38th and Seawall, Galveston, Texas.

**FOR FURTHER INFORMATION CONTACT:** Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228-2815.

Dated: September 13, 1979.

Winfred H. Meibohm, *Executive Director National Marine Fisheries Service.*

[FR Doc. 79-29062 Filed 9-18-79; 8:45 am]

BILLING CODE 3510-22-M

### South Atlantic Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service, NOAA.

**SUMMARY:** The South Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to: (1) Discuss Council actions related to Billfish, Snapper-Grouper, King & Spanish Mackerel, Spiny Lobster, and Swordfish fishery management plans (FMP's); (2) Review foreign fishing permits, if any, and (3) Conduct other management business.

**DATES:** The meeting will convene on Tuesday, October 23, 1979, at 1:30 p.m. and will adjourn on Thursday, October 25, 1979, at approximately 12 noon. The meeting is open to the public.

**ADDRESS:** The meeting will take place at the Swamp Fox Motor Inn, S. Ocean

Boulevard, Myrtle Beach, South Carolina.

**FOR FURTHER INFORMATION CONTACT:** South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407 Telephone: (803) 571–4366.

Dated: September 12, 1979.

Winfred H. Meibohm,

*Executive Director, National Marine Fisheries Service.*

[FR Doc. 79-28958 Filed 9-18-79; 8:45 am]

BILLING CODE 3510-22-M

## Office of the Secretary

## Department Procedures To Implement the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act

### Response to Regulatory Requirement

By this notice, the U.S. Department of Commerce proposes a revision of Department Administrative Order 216–6, "Statement on Proposed Federal Actions Affecting the Environment" which was issued and effective November 27, 1974. This revision is needed to comply with the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act issued by the Council on Environmental Quality (CEQ) (43 FR 55978–56007, November 29, 1978; 40 CFR Parts 1500–1508) the (CEQ regulations). Section 1507.3 of the CEQ regulations requires Federal agencies to adopt procedures to supplement the CEQ regulations.

The proposed revised Department Administrative Order (DAO) 216–6 would implement within the Department of Commerce the CEQ regulations and the National Environmental Policy Act. The proposal would apply to major actions taken by the Department and its component units which may have a significant impact on the quality of the human environment, including legislative proposals, but excluding actions which would have impacts entirely outside the geographic borders of the United States and its territories and possessions. (The latter actions are addressed by Executive Order 12114, and the Department's procedures to implement Executive Order 12114 will be proposed in the near future in a separate Federal Register notice.)

To be considered, comments on the proposed revised DAO 216–6 must be received in writing (preferably in four copies) in the Department of Commerce by October 19, 1979, at the address shown below:

Dr. Jordan J. Baruch, Assistant Secretary for Science and Technology, Room 3862, U.S. Department of Commerce, Washington, D.C. 20230.

For further information contact Mr. Edward J. Wilczynski, Office of Environmental Affairs, telephone number 202/377–2186.

Dated: September 14, 1979.

Jordan J. Baruch,

*Assistant Secretary for Science and Technology.*

### Implementing the National Environmental Policy Act

*Section 1. Purpose*

.01 This order supersedes Department Administrative Order 216–6 dated November 27, 1974, and prescribes policies and establishes responsibilities and procedures to be followed in the Department for implementing Section 102(2) of the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations (the regulations) (40 CFR Parts 1500–1508).

.02 The revision of the policies, responsibilities and procedures in the superseded order is necessary to establish Departmental implementing procedures in compliance with Part 1507 of the regulations.

*Section 2. Scope.*

.01 This order applies to major Federal actions, as defined in § 1508.18 of the regulations, and specifically applies to the following major actions undertaken by the Department or any organization unit (for the purposes of this order the head of an organization unit means the head of an operating unit, head of a Department Office, or a Secretarial Officer, as appropriate):

a. Legislative proposals significantly affecting the quality of the human environment initiated by the Department for which the Department would have primary action responsibility.

b. Project and program activities, including assistance as provided in Attachment D to OMB Circular A–95 (Revised) (41 FR 2052, January 13, 1976);

c. Research projects and activities if—

1. Either the conduct or the reasonably foreseeable consequences of a research activity would have a significant impact on the quality of the human environment, or

2. Research is intended to form the basis for development of future projects that would be considered major actions within the scope of this order or under § 1508.18 of the regulations; and

d. Policy, planning, or program actions having significant impacts on the quality of the human environment. In such a case, the policy, plan, or program, rather than the component projects of such action, may be considered to be the major action. (See §§ 1500.4(i), 1502.4, 1502.20 and 1508.18 of the regulations.) Although an Environmental Impact Statement (EIS) may be prepared in accordance with the regulations and this order, supplemental documents may be required for specific actions (see § 1509.9(c)(1) and (2) of the regulations).

.02 This order does not apply to the following:

a. Normal Departmental housekeeping functions including personnel actions, procurement for general supplies, and contracts for personal services;

b. Modifications of major Federal actions of the Department within the scope of this order and as defined in § 1508.18 of the regulations, such as cost increases, which do not significantly alter the environmental impact of the actions;

c. Categorical exclusions determined pursuant to subparagraphs 4.02 q. and 4.03 a., and paragraph 4.04 of this order, and in accordance with § 1508.4 of the regulations, as not individually or cumulatively having a significant effect on the human environment; provided that, if extraordinary circumstances exist, the procedures prescribed in this order shall be followed;

d. Legislative proposals that only request appropriations. Legislative proposals that only request an extension of an authorization of appropriations for an existing program will not require preparation of an EIS; however, legislative proposals for authorization of appropriations for new programs or projects which would significantly affect the quality of the human environment will require preparation of an EIS;

e. Other actions specifically determined by the Deputy Assistant Secretary for Environmental Affairs (DAS) pursuant to NEPA, the regulations, and this order not to fall under the requirements of this order; and

f. Actions which may have significant impact on the environment exclusively outside the geographic borders of the United States and its territories and possessions and which are subject to Executive Order 12114, Environmental Effects Abroad of Major Federal Actions.

*Sec. 3 Policies.*

.01 In addition to the policies set forth in § 1500.2 of the regulations, it is the policy of the Department to cooperate fully in the national effort to improve the quality of the human environment, including extending its services, to the extent of available resources, to other Federal, State, and local agencies to assist in evaluating the impact of Federal actions upon the environment.

.02 The Department will review and, as appropriate, provide comments on a draft EIS prepared by another Federal agency submitted by, or with the concurrence of, the Federal agency having lead agency responsibility for preparation of the EIS. Heads of organization units may voluntarily review EISs other than those formally submitted to the Department, provided that such voluntary review does not interfere with the review of EISs formally submitted to the Department. Comments resulting from voluntary EIS review shall be submitted to the DAS for disposition in accordance with subparagraph 4.02 o. of this order.

.03 No major action (within the scope of this order and § 1508.18 of the regulations) that will significantly affect the quality of the human environment shall be taken or approved within the Department unless an EIS has been prepared and approved as provided by this order. For a legislative

proposal of the type specified in subparagraph 2.01 a. of this order, a legislative EIS shall be prepared and submitted in accordance with the applicable provisions of the regulations and subparagraphs. 4.02 j. and 4.03 b. and n. 3. and paragraph 4.04 of this order.

.04 The Department will be responsible for the preparation of necessary EISs on those actions related to responsibilities formally delegated or assigned to it.

.05 Heads of organization units are encouraged to propose to the DAS, pursuant to subparagraph 4.03 t. of this order, plans, procedures, and/or regulations to implement NEPA, the regulations, and this order tailored to the statutes applicable to and the plans, projects and program activity of their respective units. Individual organization unit procedures and/or regulations shall integrate the NEPA process with processes required of the organization unit by other statutes and executive orders. (See Section 1502.25(a) of the regulations.) However, in instances where the head of an organization unit does not adopt such plans, procedures, and/or regulations, the procedures of paragraph 4.03 of this order shall govern.

*Sec. 4. Procedures.*

.01 *General.* When the DAS and the head of an organization unit do not agree upon the manner in which proposed action is to comply with NEPA, the regulations, or this order, the matter shall be brought to the General Counsel for resolution.

.02 *The Assistant Secretary for Science and Technology.* Pursuant to the provisions of Departmental Organization Order 10-1, the Assistant Secretary for Science and Technology, through the Deputy Assistant Secretary for Environmental Affairs, shall have the following responsibilities. Only subparagraphs a., b., e., j., l., n., o., and p. of this paragraph apply to the actions of the Assistant Secretary for Economic Development or the Administrator of the National Oceanic and Atmospheric Administration (NOAA).

a. Provide guidance to the heads of organization units for compliance with NEPA, the regulations, and this order. The DAS may periodically issue information relating to the environmental review process which is generated by Executive Orders, Presidential Directives, judicial decisions, and like sources;

b. Review and provide guidance concerning plans, procedures, and regulations and proposed revisions thereto of all organization units of the Department for complying with NEPA, the regulations and this order, and determine and notify the head of the organization unit whether such plans, procedures, and regulations, and proposed revisions thereto, are in accordance with NEPA, the regulations, and this order and whether they may be adopted;

c. Review an environmental assessment prepared and submitted pursuant to subparagraphs .03 e. and f. of this section, determine whether such assessment satisfies the requirements of the regulations, and, where appropriate, make a finding of no significant impact or determine the need for preparation of an EIS and notify the head of the organization unit accordingly;

d. Review a draft EIS prepared and submitted pursuant to subparagraph .03 j. of this section, circulate it within the Department to the extent deemed necessary, and determine and notify the head of the organization unit whether the document satisfies the requirements of NEPA, the regulations, and this order;

e. At the request of the head of an organization unit provide guidance regarding public involvement in accordance with § 1506.6 of the regulations;

f. Ensure than the responsible organization unit transmits, over the signature of the DAS, any approved draft EIS to all appropriate government agencies and the public and files, over the signature of the DAS, such draft EIS with the Environmental Protection Agency (EPA);

g. Review a proposed final EIS prepared and submitted pursuant to subparagraph .03 m. of this section to ensure that it fully considers and responds to all substantive comments received within the prescribed period on the draft EIS, and determine and notify the head of the organization unit whether the document satisfies the requirements of NEPA, the regulations, and this order;

h. Ensure that the responsible organization unit transmits, over the signature of the DAS, the final EIS to all appropriate government agencies and the public and files, over the signature of the DAS, such final EIS with the EPA;

i. Ensure that the responsible organization unit files with EPA, over the signature of the DAS, comments received within the prescribed period on the final EIS and any responses to such comments;

j. Review legislative proposals submitted by the head of an organization unit pursuant to subparagraph .03 b. of this section, and following consultation with the Assistant General Counsel for Legislation (AGC/Leg.), determined the need for preparing a legislative EIS and notify the head of the organization unit submitting the legislative proposal accordingly. Review legislative EISs submitted by a head of an organization unit pursuant to subparagraph .03 b. and determine whether the document satisfies the requirements of NEPA, the regulations, and this order. With the concurrence of the AGC/Leg. and the Assistant Secretary for Congressional Affiars, transmit to the Congress any required legislative EIS determined to be satisfactory;

k. If requested, consult with the head of an organization unit with respect to conducting NEPA related hearings in accordance with § 1506.6 of the regulations and notify the head of the organization unit as to whether a report as described in subparagraph .03 h. of this section shall be submitted to the DAS;

l. Make determinations for the Department, with the concurrence of the appropriate organization unit head(s), with the respect to the making of predecision referrals and related matters under Section 1504 of the regulations. With regard to any referral actions initiated by other agencies pertaining to a proposed action by the Department, the DAS shall consult with the head of the orginization unit involved regarding an appropriate Departmental response;

m. Provide guidance to heads of organization units regarding the preparation of records of decision in accordance with § 1505.2 of the regulations;

n. Coordinate Departmental review of draft EISs prepared by other agencies and referred to the Department of Commerce and, after necessary consultation with interested organization units, exercise primary responsibility for preparation and submission of comments required of the Department under the provisions of NEPA;

o. In instances where an operating unit voluntarily reviews and prepares proposed comments on a draft EIS not formally submitted by another agency for Departmental review, review such proposed comments for conformity with Departmental policy, and after consultation with all interested organization units, exercise primary responsibility for the submission of comments to the agency that prepared the EIS;

p. In consultation with appropriate organization unit heads, represent the Department in interagency proceedings to determine, pursuant to § 1501.5 of the regulations, which Federal agency shall be the "lead agency;" and

q. Review proposed categorical exclusions for categories of organization unit activities and actions submitted by a head of an organization unit pursuant to subparagraph .03 a. of this section, and, for any proposal which satisfies §§ 1500.4(p) and 1508.4 of the regulations, approve such categorical exclusions within 30 days of submission.

.03 *Heads of Organization Units.* The heads of organization units, other than the Assistant Secretary for Economic Development and the Administrator of the National Oceanic and Atmospheric Administration (NOAA), shall have all the following functional responsibilities (the responsibilities of the Assistant Secretary for Economic Development and the Administrator of NOAA are specified in paragraph .04 of this section):

a. Submit to the DAS for approval pursuant to subparagraph .02 q. of this section, categories of actions proposed to be designated as categorial exclusions and submit supporting explanations as requested by the DAS;

b. Submit legislative proposals to the DAS at the earliest possible stage for determination of the need to prepare a legislative EIS in accordance with subparagraph .02 j. of this section. If a legislative EIS is determined to be necessary, prepare the document, in consultation with the DAS, and submit it to the DAS for a determination of whether the document satisfies the requirements of NEPA, the regulations, and this order, and if so, for transmittal to the Congress;

c. Advise the DAS of actions (other than legislative proposals) to be undertaken by the unit that normally require preparation of an EIS pursuant to § 1501.4 of the regulations and, therefore, do not require preparation of an environmental assessment, in accordance with § 1501.3(a) of the regulations;

d. Designate major decision points within the organization unit's principal programs likely to have a significant effect on the

human environment and ensure that pertinent NEPA documents, comments, and responses accompany a proposal through review processes in the organization unit and Department so that Department officials with decisionmaking responsibilities can use such documents at appropriate decision points;

e. Prepare, at the earliest practicable time, an environmental assessment for any proposed major action [other than legislative proposals] that may have a significant impact [as contemplated by Section 1508.27 of the regulations], except for actions which are not within the scope of this order, including categorical exclusions [see paragraph 2.02 of this order and subparagraphs .02 q. and .03 a. of this section] or actions for which a decision is made to prepare an EIS, as provided for by § 1501.3[a] of the regulations. Environmental assessments should contain factual information and analysis and include economic and technical considerations as well as consideration of environmental values, including those related to floodplains and wetlands, as required by DAO 216-11;

f. Submit an environmental assessment to the DAS and review the document with the DAS to determine whether a draft EIS should be prepared or a finding of no significant impact should be made pursuant to §§ 1501.4, 1508.9[a], and 1508.13 of the regulations and subparagraph .02 c. of this section. If the head of the organization unit recommends that the DAS make a finding of no significant impact, the head of the organization unit shall prepare undated proposed letters of transmittal to interested parties and the Office of Environmental Review, EPA, to accompany a Finding of No Significant Impact and the environmental assessment supporting it;

g. If it is determined that an EIS is to be prepared, publish a "Notice of Intent" pursuant to §§ 1501.7 and 1508.22 of the regulations before initiating the scoping process described in § 1501.7 of the regulations;

h. If deemed necessary, consult with the DAS in making a decision to conduct a NEPA related hearing [in accordance with § 1506.6 of the regulations]. Notify the DAS of the intention to conduct such a hearing; and, if so requested by the DAS, prepare a report summarizing the proceedings and identifying the principal participants, the major issues discussed, the positions taken, the final disposition of issues, and any other matters deemed important by the head of the organization unit;

i. Ensure that draft and final EISs are prepared in the manner set forth in § 1502.2 of the regulations and in conformity with the regulations regarding timing, interdisciplinary preparation, length, writing style, and format [§§ 1502.5, 1502.6, and 1502.7, 1502.8 and 1502.10 of the regulations];

j. For actions [other than legislative proposals] determined to require the preparation of an EIS, submit a proposed draft EIS to the DAS for review and appropriate action pursuant to subparagraph .02 d. of this section; and transmit over the signature of the DAS, an approved draft EIS to all appropriate government agencies and members of the public and file, over the signature of the DAS, such draft EIS with the EPA;

k. Ensure that in notices of availability of environmental documents there is identified an officer in the organization unit from whom interested persons may obtain information or status reports on environmental documents and other elements of the NEPA process;

l. Consider all comments from other government agencies, organizations, and members of the public on the draft EIS and respond in accordance with § 1503.4 of the regulations in preparing the final EIS;

m. Prepare and submit a draft of any necessary final EIS to the DAS for review and appropriate action pursuant to subparagraph .02 g. of this section and transmit, over the signature of the DAS, an approved final EIS to all appropriate government agencies and members of the public and file over the signature of the DAS, such final EIS with the EPA;

n. Prepare and submit to the DAS—

1. For draft and final EISs, necessary letters of transmittal to be signed by the DAS for EPA and each interested government agency and members of the public to whom the documents will be sent,

2. For substantive comments on a final EIS received within the prescribed period and for any responses to such comments, a letter of transmittal for the DAS's signature to EPA,

3. For Legislative EISs, after consulting with the DAS, necessary letters of transmittal to the Congress to be signed by DAS;

o. Ensure that the alternatives considered by the decisionmaker are encompassed by the range of alternatives discussed in the relevant environmental documents and that the decisionmaker considers the alternatives described in the environmental impact statement; or, if decisionmaking authority is delegated, ensure that the intent of this subparagraph is carried out;

p. Require that relevant environmental documents, comments, and responses be part of the record in formal rulemaking or adjudicatory proceedings conducted by the Department with respect to the proposed action; and adopt procedures for introducing any supplement to an EIS into the record of any formal rulemaking or adjudicatory proceeding conducted by the Department relating to the proposed action addressed by the supplement;

q. Provide for cases where actions are planned by private applicants or other non-Federal entities before Federal involvement so that—

1. Policies or designated staff are available to advise potential applicants of studies or other information foreseeably required for later Federal action,

2. The organization unit consults early with appropriate State and local agencies and Indian tribes and with interested private persons and organizations when its own involvement is reasonably foreseeable, and

3. The organization unit commences its NEPA process at the earliest possible time;

r. Forward promptly to the DAS any request for comments on EISs received by the organization unit directly from other Federal Agencies. This provision shall not preclude an organization unit field office from providing a preliminary response to an EIS received locally, if it is made clear that the official Department position will be provided at a later date by the DAS;

s. Keep the DAS advised of—

1. Possible future actions that could have or would be likely to have a significant impact on the human environment including actions that would be categorically excluded as provided in subparagraph 2.02c. of this order and subparagraphs .02 q. and .03 a. of this section, and

2. Other matters that affect the DAS's responsibilities under NEPA, the regulations and this order;

t. Submit to the DAS for review and determination pursuant to subparagraph .02 b. of this section any proposed plans, procedures, and/or regulations to implement NEPA, the regulations, and this order tailored to the statutes applicable to and the plans, programs and projects of their organization unit believed desirable to implement this order. To the extent consistent with the responsibilities of the DAS pursuant to paragraph .02 of this section, be responsible for and take all actions necessary to comply with any such plans, procedures, and/or regulations approved pursuant to subparagraph .02 b. of this section and ultimately adopted; and

u. In consultation with the DAS, seek the advice of the General Counsel on any legal questions arising in connection with this order.

.04 The Assistant Secretary for Economic Development, with respect to the undertaking of actions under all legislation administered by the Economic Development Administration (EDA), and the Administrator of NOAA, with respect to the undertaking of actions pursuant to all legislation administered by NOAA, shall:

a. Submit to the DAS for review and determination pursuant to subparagraph .02 b. of this section proposed overall plans, procedures, and regulations for complying with NEPA, the regulations, and this order;

b. Pursuant to overall plans, procedures, and regulations approved in accordance with subparagraph .02 b. of this section and ultimately adopted, be responsible for and take all actions under all legislation administered by EDA and NOAA respectively to comply with NEPA and the regulations, excluding those functions described in subparagraphs .02 a., b., e., j., l., n., o. and p. which shall remain the responsibility of the DAS. The Assistant Secretary for Economic Development and the Administrator of NOAA shall comply with subparagraphs .03 b., d., e., g., i., k., l., n.3., o., p., q., r., s. 2 and u. of this section but are not required to comply with all other provisions of paragraph .03; and

c. Inform the DAS of actions taken under subparagraph b. of this paragraph—in instances where an environmental assessment is prepared resulting in a Finding of No Significant Impact, transmit to the Office of Environmental Review, EPA, and interested parties the Finding and the environmental assessment supporting it, and furnish the DAS a copy of the transmittal letters and environmental assessment; in instances where a determination is made to prepare an EIS for a proposed project or action, provide a copy of the draft or final EIS. The Assistant Secretary for Economic Development and the Administrator of

NOAA may, in their discretion, consult with and seek the advice of the DAS with respect to any of the responsibilities exercised in accordance with subparagraph b. of this paragraph.

.05 *The General Counsel.* Pursuant to the provisions of Department Organization Order 10-6, and the provisions of Department Administrative Order 218-1, supplementary procedures for the preparation, review, and coordination of legislative EISs required in connection with legislative proposals or reports may be prescribed by the General Counsel of the Department.

*Section 5. Effect on Other Orders*

This order supersedes Department Administrative Order 216-6 dated November 27, 1974. This order is to be applied independently of DAO 216-12, Environmental Effects Abroad of Major Federal Actions, which implements Executive Order 12114.

*Secretary of Commerce.*

Office of primary Interest:
Office of Environmental Affairs

[FR Doc. 79-29026 Filed 9-18-79; 8:45 am]
BILLING CODE 3510-18-M

## COUNCIL ON ENVIRONMENTAL QUALITY

### Toxic Substances Strategy Committee, Report to the President

September 13, 1979.

**AGENCY:** Council on Environmental Quality.

**ACTION:** Extension of time in which to file comments on the Report to the President by the Toxic Substances Strategy Committee.

**SUMMARY:** The Toxic Substances Strategy Committee (TSSC), an interagency committee established by the Council on Environmental Quality at the direction of the President, has prepared a draft of its Report to the President. This Report presents findings, policy considerations, and tentative recommendations reached by the TSSC in its deliberations and study which began in October 1977. The draft was issued on August 16, 1979, for review and comment so that the final Report to the President may reflect the full range of public comment and concerns. (44 FR 48134)

**DATE:** Comments on the draft report must be received by October 15, 1979.

**ADDRESS:** Requests for the report should be addressed to the Public Information Office (TSSC-Report), Council on Environmental Quality, Executive Office of the President, 722 Jackson Place, N.W., Washington, D.C. 20006 (395-5770).

Comments or requests for further information should be directed to: Robert B. Nicholas, Senior Staff Member for Environmental Health and Toxic Substances, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006. Telephone: (202) 395-4980.

Gus Speth,

*Chairman, Council on Environmental Quality (Chairman, Toxic Substances Strategy Committee).*

[FR Doc. 79-29022 Filed 9-18-79; 8:45 am]
BILLING CODE 3125-01-M

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### Air Force Institute of Technology Subcommittee of the Air University Board of Visitors; Meeting

The Air Force Institute of Technology Subcommittee of the Air University Board of Visitors will hold a meeting on November 6, 1979 at 11:00 a.m. at Wright-Patterson Air Force Base, Ohio, Building 125, room 2004.

The purpose of the meeting is to give the subcommittee the opportunity to present to the Commandant, Air Force Institute of Technology, a report of findings and recommendations concerning the institute's educational programs. The findings of the subcommittee will also be reported to the Commander, Air University, at the next regularly scheduled meeting of the Air University Board of Visitors.

Meeting is open to the public (ten seats available).

For further information on this meeting, contact Major Sonya S. Trubshaw, Evaluation Division, Directorate of Educational Plans and Operations, Air Force Institute of Technology, (513) 255-5760 or 2079.

Carol M. Rose,

*Air Force Federal Register Liaison Officer.*

[FR Doc. 79-28981 Filed 9-18-79; 8:45 am]
BILLING CODE 3910-01-M

### Corps of Engineers

### Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Flood Control Project at Euclid Creek, Cuyahoga County, Ohio

**AGENCY:** U.S. Army Corps of Engineers, Buffalo District, DOD.

**ACTION:** Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS).

Proposed Action: The proposed action would involve a structural or nonstructural solution geared toward prevention of overland flooding directly from Euclid Creek.

Alternatives Considered: A total of 12 alternative plans of improvement were considered in the preliminary design phase. Of these, the following four feasible alternatives were found to warrant further consideration.

(1) Scheme 4: 100-Year nonstructural plan number 1—the objective in the design of Nonstructural Plan Number 1 would be to provide a comprehensive plan to reduce flood damage to residential, commercial, and public structures in the principal damage center at Lake Shore Boulevard by actions directed toward property, land, or population rather than actions directed to change the direction, area of inundation, volume, stage, or timing of flood flows. Combination ring levee-floodwalls averaging seven feet in height would protect the apartment complex and motel at Lake Shore Boulevard. Flood gates would be provided at driveways to these structures. Scheme 4 would call for elevating four houses to raise the first floor above the 100-year flood elevation and floodproofing five other residences. Appurtenant works would include providing flap gates on seven outfalls into Euclid Creek and waterproofing 12 sanitary sewer manholes. In addition, approximately 70 residences would require sump pumps and one-way valves on basement floor drains to prevent basement flooding from sewer backup.

(2) Scheme 5: 20-Year Channelization plan and levee-the functional objectives for Scheme 5 would be to provide the maximum degree of flood protection without altering Lake Shore Boulevard Bridge and to minimize the adverse impact on the environment for a structural scheme. Major features include: An approximately 1,200-foot long channel, 50 to 60 feet in bottom width and IV: 3H side slopes downstream from Lake Shore Boulevard; shoal removal under Lake Shore Boulevard; a riprapped friction channel with IV: 2H side slopes extending approximately 550 feet upstream of Lake Shore Boulevard; a combination of floodwall-levee on the right bank upstream of Lake Shore Boulevard; installation of sump pumps and one-way valves on basement floor drains in 40 residences to prevent sewer backup; and a debris retention structure upstream of Lake Shore Boulevard.

(3) Scheme 6: 100-Year protection in the concentrated damage center—Replace Lake Shore Boulevard bridge, right bank levee, and minimum channelization. The objectives of Scheme 6 would be to minimize the

extent and amounts of physical change alone Euclid Creek and still provide 100-year protection in the damage center at Lake Shore Boulevard to maximize the percent of existing flood damages eliminated. Features of Scheme 6 include: Channel enlargement and a right-bank levee upstream of Lake Shore Boulevard for a distance of approximately 2,400 feet; replacement of Lake Shore Boulevard bridge; a 7.5-foot high drop structure of approximately 1,000 feet upstream of Lake Shore Boulevard; a debris retention structure 1,200 feet upstream of Lake Shore Boulevard; a small drainage ditch, with appurtenances, landward of the levees to handle interior drainage; sump pumps and one-way valves at 46 residences to prevent sewer backup into basements; and flapgates on outfalls.

(4) Scheme 7: 100-Year protection in the concentrated damage center—Modify Lake Shore Boulevard bridge, right bank levee, and minimum channelization. The major difference between Scheme 6 and 7 is that Lake Shore Boulevard bridge would not be replaced for Scheme 7. In lieu of replacing the bridge, two culverts would be used to provide sufficient capacity to prevent overtopping. Other features include channel enlargement upstream of Lake Shore Boulevard for a distance of approximately 2,500 feet, a levee along the right bank, two four-foot high sheetpile drop structures at the upstream end of the project, a debris structure upstream from Lake Shore Boulevard, and floodproofing to prevent sewer backup into 46 residences.

Based on agency and public input provided at workshops and a Public Meeting in October 1978, the preferred alternative is Scheme 6. Therefore, final design efforts will emphasize Scheme 6, or some modification thereof.

Public Involvement: Considerable public involvement has been conducted on the Euclid Creek study to date. At least two agency workshops are scheduled during this final design phase, and the District will hold a public meeting near completion of final design, if appropriate.

Issues: Significant issues to be analyzed in the DEIS will include a determination of the extent, in degree and kind, to which the Selected Plan and any reasonable alternatives might positively or negatively impact upon the human and natural environments, to include fish and wildlife habitat areas, plants, water quality, aesthetic quality of the area, cultural resources, and the equitable distribution and stability of income.

Scoping meeting: No scoping meeting will be held since extensive coordination has already been conducted. A public meeting, announced by a public notice, may be held in the spring of 1980.

Availability: This Draft Environment Impact Statement will be made available to the public on or about January 13, 1980.

Address: Questions about the proposed action and DEIS can be answered by Paul V. Lang, U.S. Army Engineer District, 1776 Niagara Street, Buffalo, NY 14207, (716) 876-5454.

Dated: September 10, 1979.

George P. Johnson,

*Colonel, Corps of Engineers, District Engineer.*

[FR Doc. 79-28982 Filed 9-18-79; 8:45 am]

BILLING CODE 3710-GP-M

## Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Beach Erosion Control Project at Presque Isle Peninsula, Erie County, Pa.

**AGENCY:** U.S. Army Corps of Engineers, Buffalo District, DOD.

**ACTION:** Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS).

Proposed Action: The proposed action would involve the construction of erosion control devices along the peninsula shoreline and placement of sand fill to stabilize the peninsula.

*Alternatives Considered*

1. Alternative 1.—Groins—The groin alternative developed consists of construction of 37 new 400-foot long rubblemound groins with a steel sheetpile cutoff to make the groins impermeable. In addition, 10 existing 300-foot long groins would be modified by extending each 100 feet lakeward with steel sheetpiling and placements of stone along the entire 400-foot length of the groin. The spacing between the groins in the existing Federal groin field will be reduced from 1,000 feet to 500 feet by construction of an intermediate groin. Eastward of the existing Federal groin field, the spacing between the new groins would be 700 feet. This groin alternative would require an initial replenishment of 1,100,000 cubic yards of sandfill and an annual replenishment of 112,500 cubic yards in order to maintain the beaches with a design width of 60 feet and crest elevation of +10 feet above low water datum (LWD). With the groin alternative, 130,000 cubic yards of sand would be bypassed naturally to the distal end of the peninsula for continued growth.

2. Alternative 2.—Segmented Breakwater—A segmented breakwater plan was developed consisting of 58 breakwater segments which are 150 feet long and separated by gaps of 350 feet. The breakwater system would extend from the root of the peninsula, with the mainland shore eastward, through the near distal end. Each breakwater segment would be positioned approximately 300 to 400 feet offshore at the three-foot depth contour and have a crest elevation of 8.5 feet above LWD. This segmented breakwater alternative would require an initial replenishment of 750,000 cubic yards of sandfill and an annual replenishment requirement of 30,000 cubic yards in order to maintain the beaches with a design width of 60 feet and a crest elevation of +10 feet above LWD. With the segmented breakwater alternative, approximately 65,000 cubic yards of sand would be bypassed naturally to the distal end of the peninsula for continued growth.

3. Alternative 3.—Sand Recirculation—The sand recirculation alternative would require a 20-inch diameter permanent pipeline and four booster pumps located at 8,000-foot intervals. This sand recirculation alternative would require an initial replenishment of 750,000 cubic yards of sandfill and an annual replenishment of 275,000 cubic yards in order to maintain the beaches with a design width of 60 feet and a crest elevation of +10 feet above LWD. All material for the replenishment operations would come from the borrow area at the distal end and would cause an initial loss of 750,000 cubic yards of sand from the distal end and a net annual loss of 15,000 cubic yards of sand over the life of the project.

4. Alternative 4.—Sand Trap Recirculation—This alternative consists of a 2,000-foot long breakwater with a crest elevation of +18.5 feet above LWD and located about 1,200 feet offshore from the near distal end at the 10-foot depth contour, excavation of a sand trap with a 270,000 cubic yard capacity in the lee of the breakwater, and a 20-inch diameter permanent pipeline with a series of three booster pumps located at 8,000-foot intervals. The sand trap recirculation alternative would require an initial replenishment of 750,000 cubic yards of sandfill (270,000 cubic yards from the sand trap and 480,000 cubic yards from an outside source) and an annual replenishment of 305,000 cubic yards in order to maintain the beaches with a design width of 60 feet and crest elevation of +10 feet above LWD. The 305,000 cubic yard annual replenishment requirement consists of 220,000 cubic yards of sand being pumped from the trap and distributed on the beaches

west of the sand trap, a total of 30,000 cubic yards of sand being pumped from the sand trap eastward toward the distal end, and 55,000 cubic yards of sand from an outside source for distribution along the neck of the peninsula. With the sand trap recirculation alternative, a total of 40,000 cubic yards of sand would bypass to the distal end of the peninsula for continued growth (30,000 cubic yards from the sand trap and 10,000 cubic yards naturally bypassing the sand trap).

5. Alternative 5.—Annual Nourishment—With this alternative, about 750,000 cubic yards of sandfill would be needed to restore the beaches with a design width of 60 feet and crest elevation of +10 feet above LWD and an additional 275,000 cubic yards would be required annually to maintain the beach width and crest elevation. With this annual nourishment alternative, about 260,000 cubic yards of sand would bypass naturally to the distal end of the peninsula.

6. Alternative 6.—Do Nothing—This would mean no Federal involvement in beach erosion control at Presque Isle Peninsula, Pa.

Public Involvement: Considerable public involvement has been conducted on the Presque Isle Study to date through public meetings, workshops, coordinating meetings, and television interviews. Public Meetings will be held on September 26, 1979 and in April 1980.

Issues: Significant issues to be analyzed in the DEIS will include a determination of the extent in degree and kind, to which the Selected Plan and any reasonable alternatives might positively or negatively impact upon the human and natural environments, to include fish and wildlife habitat areas, plants, water quality, aesthetic quality of the area, and cultural resources.

Assignments for Input: Vertical aerial photography of Presque Isle Peninsula to monitor shoreline changes has been undertaken each April, July, and November for the last three years. The aerial photography is scheduled to continue through April 1981. A professional service contract has been procured to perform a study to monitor shoreline changes during 1978 and 1979. The three existing prototype breakwaters will be monitored until 1981. A Littoral Environment Observation Program has been enacted to establish a data bank of littoral parameters and provide information on short- and long-term behavior of physical factors in the Presque Isle area and will be carried out by State Park personnel and the Corps Coastal Engineering Research Center. The program is scheduled to continue for two more years. A model study is currently scheduled to be initiated in December 1979.

Scoping Meeting: No scoping meeting will be held since the project was coordinated previously in the survey stage. However, public meetings will be held in September 1979 and April 1980 for which public notices will be circulated.

Availability: This Draft Environmental Impact Statement will be made available to the public on or about March 31, 1980.

Address: Questions about the proposed action and DEIS can be answered by Paul V. Lang, U.S. Army Engineer District, Buffalo, 1776 Niagara Street, Buffalo, NY 14207. Phone (716) 876-5454.

Dated: September 7, 1979.

Thomas R. Braun,

*Lt. Col., Corps of Engineers, Deputy District Engineer.*

[FR Doc. 79-28983 Filed 9-18-79; 8:45 am]

BILLING CODE 3710-GP-M

## Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Recreational Small-Boat Harbor and Harbor-of-Refuge at Geneva-on-the-Lake, Ashtabula County, Ohio

**AGENCY:** U.S. Army Corps of Engineers, Buffalo District, DOD.

**ACTION:** Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

**PROPOSED ACTION:** The proposed action would involve constructing a small-boat harbor and harbor-of-refuge and recreational fishing facilities as an integral part of the State Park at Geneva-on-the-Lake, OH. Entrance channels, mooring facilities, and breakwaters would be constructed.

**ALTERNATIVES CONSIDERED:**

(1) Alternative 1 would provide an all-weather harbor with a 400-slip capacity located inland near the mouth of Cowles Creek. The entrance channel would be eight feet deep below Low Water Datum (LWD) and 100 feet wide. The interior channels would be excavated to the six-foot depth below LWD and would be a minimum of 100 feet in width. Mooring areas would be excavated to a depth of six feet below LWD. Two rubblemound breakwaters would be constructed under this alternative. The west breakwater would be 750 feet in length, the east 400 feet in length. A six-inch sand bypass pipe would be placed between the breakwaters and beneath the entrance channel.

(2) Alternative 2 would provide an all-weather harbor with a 400-slip capacity contiguous to the existing wetland/pond area and west of the existing parking lot. The entrance channel would be eight feet deep below LWD and 100 feet wide. The interior channels would be excavated to the six-foot depth below LWD and would be a minimum of 100 feet in width. Mooring areas would be excavated to a depth of six feet below LWD. Two rubblemound breakwaters would be constructed under this alternative. The west breakwater would be 1,300 feet in length, the east breakwater would be 600 feet in length. A six-inch sand bypass pipe would be placed between the breakwaters and beneath the entrance channel.

(3) Alternative 3 would provide an onshore, all-weather harbor with berthing for 400 boats on lands about equally distributed between the wetlands and parking lot. The entrance channel would be eight feet deep below LWD and 100 feet wide. The interior channels would be excavated to the six-foot depth below LWD and would be a minimum of 100 feet in width. Mooring areas would be excavated to a depth of six feet below LWD. Two rubblemound breakwaters would be constructed under this alternative. The west breakwater would be 650 feet in length and the east breakwater would be 400 feet in length. A six-inch sand bypass pipe would be placed between the breakwaters and beneath the entrance channel.

(4) Alternative 4 would provide an onshore all-weather harbor with berthing for 400 boats in the easterly portion of the wetland area adjacent to the existing parking lot. The entrance channel would be eight feet deep below LWD and 100 feet wide. The interior channels would be excavated to the six-foot depth below LWD and would be a minimum of 100 feet in width. Mooring areas would be excavated to a depth of six feet below LWD. Two rubblemound breakwaters would be constructed under this alternative. The west breakwater would be 500 feet in length, the east breakwater would be 400 feet in length. A six-inch sand bypass pipe would be placed between the breakwaters and beneath the entrance channel.

(5) This alternative would be the "no action" alternative which would provide for no Federal involvement in the construction of a small-boat harbor at Geneva-on-the-Lake.

**PUBLIC INVOLVEMENT:** On 22 March 1978, a Public Meeting was held in Geneva, OH, to solicit information from the general public and insure a fully coordinated Plan of Study. Another Public Meeting is currently scheduled for November 1979 to present the results of the studies conducted to formulate the alternatives previously discussed and to solicit public comment. A late stage Public Meeting currently scheduled for August 1980, will be held when the DEIS is released for public review.

**ISSUES:** Significant issues to be analyzed in the DEIS will include a determination of the extent, in degree and kind, to which the Selected Plan and any reasonable alternatives might positively

or negatively impact upon the wetland area at Geneva State Park, and what mitigative measures, if any, would be necessary. Also analyzed will be the increase or decrease of use of existing park facilities, the degree of destruction of such facilities caused by construction of the project, and the provision of a beach in the park.

**ASSIGNMENTS FOR IMPUT:** The U.S. Fish and Wildlife Service is currently conducting a four-season survey to evaluate the existing environmental conditions at Geneva State Park. Also, a Cultural Resources Survey will be conducted to insure that all historical sites are identified prior to plan implementation.

**SCOPING MEETING:** No scoping meeting will be held, however when a Public Meeting is scheduled, a Public Notice will be circulated.

**AVAILABILITY:** This Draft Environmental Impact Statement will be made available to the public on or about 31 May 1980.

**ADDRESS:** Questions about the proposed action and DEIS can be answered by Paul V. Lang, U.S. Army Engineer District, Buffalo 1776 Niagara Street, Buffalo, NY 14207 (716) 876–5454.

Dated: September 10, 1979.

George P. Johnson,

*Colonel, Corps of Engineers, District Engineer.*

[FR Doc. 79–28052 Filed 9–18–79; 8:45 am]

BILLING CODE 3710–GP–M

## Intent to Prepare a Draft Environmental Impact Statement (DEIS) for Beach Erosion Control Project at Lake Shore Park, Ashtabula County, Ohio

**AGENCY:** U.S. Army Corps of of Engineers, Buffalo District, DOD.

**ACTION:** Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS).

**PROPOSED ACTION:** The proposed action would involve constructing beach and shore protection devices to deal with the shore erosion problem at Lake Shore Park.

**ALTERNATIVES CONSIDERED:** Preliminary design studies examined the feasibility of developing each of ten various alternatives. Alternatives 2 and 3 have been recommended for final design. The original ten alternatives are:

1. No Action, which would mean no Federal involvement in shoreline protection at Lake Shore Park.

2. Alternative 2. Two Segmented Offshore Breakwaters and 800 Feet of Beach Fill—This alternative would provide for two segmented offshore breakwaters of rubblemound construction. They would each be 250 feet in length, 250 feet apart, parallel to and approximately 500 feet from the shore. The proposed initial beach fill of 71,000 c.y. of sand would be 800 feet in length and would provide a 217-foot wide recreational beach (with a mean lake level of 2.2 feet above Low Water Datum [LWD] from June through September), extending 800 feet east from the east end of the pavilion. The plan would also include an annual beach replenishment of 7,100 c.y. of sand to maintain the initial fill.

3. Alternative 3. Three Segmented Offshore Breakwaters and 1,300 Feet of Beach Fill—This alternative would provide for three segmented offshore breakwaters of rubblemound construction, 250 feet in length and 250 feet apart. Each would be approximately 600 feet from and parallel to the shore. The proposed initial beach fill of 108,300 c.y. of sand would be 1,300 feet in length extending east from the west end of the pavilion. This would provide a 217-foot wide recreational beach (with a mean lake level of 2.2 feet above LWD from June through September). The plan would also include annual beach replenishment of 10,830 c.y. of sand to maintain the initial beach fill.

4. Alternative 4. 800 Feet of Beach Fill—This plan calls for a proposed initial beach fill 800 feet in length, as described under Alternative 2. The alternative also includes annual beach replenishment of 18,000 c.y. of sand to maintain the initial beach fill. Construction of breakwaters would not be included in this plan.

5. Alternative 5. 1,300 Feet of Beach Fill—This plan calls for a proposed initial beach fill of 108,300 c.y. of sand, 1,300 feet in length, as described under Alternative 3. This alternative also includes annual beach replenishment of 27,100 c.y. of sand to maintain the initial beach fill. Construction of breakwaters would not be included in this plan.

6. Alternative 6. This alternative consists of an 800–foot long beach, as described under Alternative 2, protected by a single groin.

7. Alternative 7. Continuous Offshore Breakwater and 800 Feet of Beach Fill—This alternative calls for a 2,000-foot continuous offshore breakwater of rubblemound construction, approximately 1,500 feet offshore, located southeast of the U.S. East Breakwater, allowing for a 250±-foot entrance channel between the east end of the U.S. East Breakwater and the west end of the proposed breakwater and a 250±-foot entrance channel between the east end of the proposed breakwater and the Cleveland Electric Illuminating Company's intake structure. This alternative also calls for 800 feet of initial beach fill, 71,000 c.y. of sand, as described in Alternative 2. Annual beach replenishment of 10,000 c.y. of sand would be needed to maintain the initial fill.

8. Alternative 7A. Continuous Offshore Breakwater, 800 Feet of Beach Fill—This alternative consists of a 2,000-foot continuous offshore breakwater of rubblemound construction, as discussed in Alternative 7. The breakwater in Alternative 7A would however, be higher to afford protection for a proposed small-boat harbor at the west end of the park. Initial beach fill 800 feet in length, consisting of 71,000 c.y. of sand would be constructed as described in Alternative 2. This plan would also include annual beach replenishment of 3,600 c.y. of sand to maintain the initial fill.

9. Alternative 8. Continuous Offshore Breakwater and 1,300 Feet of Beach Fill—This alternative consists of a 2,000-foot continuous offshore breakwater of rubblemound construction, as discussed in Alternative 7, and 1,300 feet of initial beach fill consisting of 108,300 c.y. of sand as discussed in Alternative 3. This plan would also include annual beach replenishment of 15,200 c.y. of sand to maintain the initial fill.

10. Alternative 8A. Continuous Offshore Breakwater, 1,300 Feet of Beach Fill—This alternative consists of a 2,000-foot continous offshore breakwater of rubblemound construction, as discussed in Alternative 7A, and 1,300 feet of initial beach fill consisting of 108,300 c.y. of sand as discussed in Alternative 3. The plan would also include annual beach replenishment of 5,400 c.y. of sand to maintain the initial fill.

**PUBLIC INVOLVEMENT:** Considerable public involvement has been conducted on the Lake Shore Park Study to date. A public meeting will be held on September 25, 1979 to discuss the various alternatives and to present the District's recommendations on final design. Final design studies of the recommended alternatives will begin after this public meeting. The final selection of the recommended alternative will be determined from the results of these final design studies and will be closely coordinated with the appropriate State and local officials.

**ISSUES:** Significant issues to be analyzed in the DEIS will include a determination of the extent, in degree and kind, to which the Selected Plan and any reasonable alternatives might positively or negatively impact upon the human and natural environments, to include fish and wildlife habitat areas, plants, water quality, aesthetic quality of the area, and cultural resources.

**SCOPING MEETING:** No scoping meeting will be held since extensive coordination has already been conducted.

**AVAILABILITY:** This Draft Environmental Impact Statement will be made available to the public on or about 30 September 1980.

**ADDRESS:** Questions about the proposed action and DEIS can be answered by Paul V. Lang, U.S. Army Engineer District, Buffalo, 1776 Niagara Street, Buffalo, NY 14207. Phone (716) 876–5454.

Dated: September 10, 1979.

George P. Johnson,

*Colonel, Corps of Engineers, District Engineer.*

[FR Doc. 79–28051 Filed 9–18–79; 8:45 am]

BILLING CODE 3710–GP–M

## Department of the Army

### Fort Ben Harrison, Ind., Ongoing Missions; Filing of Environmental Impact Statement

The Army, on September 14, 1979, provided the Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) concerning the ongoing missions at Fort Ben Harrison, IN. The alternatives of maintaining, discontinuing, or changing missions at Fort Ben Harrison are analyzed. Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies for the cost of reproduction from the Commander, Fort Ben Harrison, ATTN: Director of Facilities Engineering, Fort Ben Harrison, IN 46216, telephone: (317) 542-4312.

In the Washington area, copies may be seen during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, D.C. 20310, telephone: (202) 694-3434.

Bruce A. Hildebrand,

*Deputy for Environment, Safety and Occupational Health, OASA (IL&FM).*

[FR Doc. 79-29049 Filed 9-18-79; 8:45 am]

BILLING CODE 3710-08-M

### Fort Monroe, Va., Ongoing Missions; Filing of Environmental Impact Statement

The Army, on September 14, 1979, provided the Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) concerning the ongoing missions at Fort Monroe, Virginia. The alternatives of maintaining, discontinuing, or changing missions at Fort Monroe are analyzed. Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies for the cost of reproduction from the Commander, Fort Monroe, ATTN: Director of Facilities Engineering, U.S. Army Training and Doctrine Command and Fort Monroe, Fort Monroe, VA 23615, telephone: (804) 727-2444.

In the Washington area, copies may be seen during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, D.C. 20310, telephone: (202) 694-3434.

Bruce A. Hildebrand,

*Deputy for Environment, Safety and Occupational Health, OASA (IL&FM).*

[FR Doc. 79-29048 Filed 9-18-79; 8:45 am]

BILLING CODE 3710-08-M

## DEPARTMENT OF ENERGY

### Automotive Propulsion Research and Development; Contractor Coordination Meeting

**AGENCY:** Department of Energy.

**ACTION:** Notice of Meeting.

**SUMMARY:** The Department of Energy will hold a contractor coordination meeting on automotive propulsion research and development, and members of the public are hereby invited to attend as observers. Contractors and staff of the Department of Energy and the National Aeronautics and Space Administration will present papers on the current state of research and development on advanced automotive propulsion systems and on alternative fuels.

**DATES:** October 23-25, 1979, 9 a.m. to 5 p.m.

**ADDRESS:** Hyatt Regency Dearborn Hotel, Dearborn, Michigan.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Alma Anderson, U.S. Department of Energy, Mail Station 2221C, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585, Telephone (202) 376-4675.

**SUPPLEMENTARY INFORMATION:** Today's notice follows through on a statement in the notice of proposed regulations (43 FR 31929, 31932 (July 24, 1978)) under section 304(f) of the Department of Energy Act of 1978—Civilian Applications (Act), 15 U.S.C. 2703(f), in which the Department of Energy (DOE) announced its intention to open contractor coordination meetings to public attendance. Section 304(f) requires the DOE to issue administrative regulations prescribing procedures, standards, and criteria for review and certification of automotive propulsion research and development (R&D) to be funded by new grants, cooperative agreements, or contracts, or as new DOE or agency projects under the Act. The purpose of the review and certification process is to insure that R&D newly funded under the Act will supplement rather than supplant, duplicate, displace, or lessen the same activities in the private sector.

The final regulations (43 FR 55228, November 24, 1978) provide for notice to the public of proposed R&D and an opportunity to file written objections. To enable the public to avail itself of the opportunity to participate in the review and certification process, the DOE stated in the notice of the proposed regulations that it would give notice of meetings, such as the one announced today, since relevant information is to be presented.

Below is a preliminary agenda:

| Date | Topic | Session |
|---|---|---|
| October 23. | Program overview and Stirling engine R. & D. | Morning |
| | Stirling engine R. & D. | Afternoon |
| October 24. | Gas turbine systems R. & D. and discussion. | Morning |
| | Supporting research and technology *and* alternative fuels (concurrent sessions). | Afternoon |
| October 25. | Vehicle systems R. & D. *and* alternative fuels (concurrent sessions). | Morning |
| | Diesel engine development *and* alternative fuels (concurrent sessions). | Afternoon |

Registrants at the meeting pay a $25 registration fee for which they receive refreshments, copies of papers presented at the meeting, and subsequently a copy of the report of the proceedings. Members of the public may register and pay the fee if they wish to avail themselves of these services and materials. However, if they do not, they are free simply to attend meeting sessions and listen to the proceedings. Members of the public intending to respond to this notice are requested to so advise the information contact named above in advance so that appropriate seating arrangements can be made.

Issued in Washington, D.C., September 13, 1979.

Maxine Savitz,

*Deputy Assistant Secretary, Conservation and Solar Applications.*

[FR Doc. 79-28967 Filed 9-18-79; 8:45 am]

BILLING CODE 6450-01-M

### Subsidization of Motor Fuel Marketing; Final Set of Hearings Related to Title III of the Petroleum Marketing Practices Act

**AGENCY:** Office of Competition, Department of Energy.

**ACTION:** Notice of Public Hearings.

**SUMMARY:** The Office of Competition of the Department of Energy gives notice of a public hearing and opportunity for submission of written comments concerning the study required by Title III of the Petroleum Marketing Practices Act (Pub. L. 95-297). An outline of this study was published in the Federal Register January 17, 1979 (44 FR 3548). The outline indicated that a series of regional hearings would be held across the nation. The general purpose of these hearings is to present interested parties with an opportunity to express their views regarding subsidization of motor fuel marketing. Hearings were held in Los Angeles on July 17, 1979, Fort

Wayne on August 21, 1979, and Atlanta on August 29, 1979. Hearings are scheduled for Houston on September 18, 1979 and Boston on September 25, 1979. Contact Robert Fenili or James Delaney of the Office of Competition for information regarding the Houston or Boston hearing.

The purpose of this notice is to announce that three additional public hearings will be held in Memphis, Tennessee; Seattle, Washington; and Detroit, Michigan.

**DATES:** (1) Memphis, Tennessee: Requests to speak on or before October 1st at 4:30 p.m. Oral statements due on October 10th at 8:00 a.m. Hearings on October 10th at 9:30 a.m.

(2) Seattle, Washington: Requests to speak on or before October 26th at 4:30 p.m. Oral statements due on November 6th at 8:00 a.m. Hearings on November 6th at 9:30 a.m.

(3) Detroit, Michigan: Requests to speak on or before December 3rd at 4:30 p.m. Oral statements due on December 11th at 8:00 a.m. Hearings on December 11th at 9:30 a.m.

**ADDRESSES:** (1) Memphis, Tennessee—Send request to speak to: Department of Energy; Region IV: 1655 Peachtree Street; Attention Betty Camp; Atlanta, Georgia 30309. Hearing Location: Federal Building, Room 936, 167 North Main Street, Memphis, Tennessee.

(2) Seattle, Washington—Send request to speak to: Department of Energy; Region X, Federal Bldg; 915 Second Avenue; Room 1992; Seattle, Washington 98174. Hearing Location: Federal Building, 4th Floor South Auditorium, 915 Second Ave. Seattle, Washington.

(3) Detroit, Michigan—Send request to speak to: Department of Energy; Region V; 175 W. Jackson Blvd; Attention: Ken Kramer, Chicago, Illinois 60604. Hearing Location: Federal Bldg, 231 West Lafayette, Detroit, Michigan.

**WRITTEN COMMENTS:** Anyone may submit written comments concerning the Title III Study. Send written comments to: Office of Public Hearing Management, Department of Energy, Room 2313, Box XK, 2000 M Street, NW., Washington, D.C. 20461. Written comments should be submitted on or before December 31, 1979.

**FOR FURTHER INFORMATION CONTRACT:**

James Delaney, Robert Fenili, Office of Competition, Department of Energy, 12th & Pennsylvania Avenue, NW., Room 4115, Washington, D.C. 20461, 202-633-9191.

Robert C. Gillette, Hearing Procedures, Department of Energy 2000 M Street, NW., Room 2214B, Washington, D.C. 20461, 202-254-5201.

**SUPPLEMENTARY INFORMATION:**



## I. Background

On January 17, 1979, in the Federal Register, the Office of Competition indicated that it would adopt a regional approach to the Title III Study on subsidization in the marketing of motor fuel. A multifaceted plan was outlined in that notice. The plan included a retail outlet survey of five selected areas, a refiner and wholesaler survey, a functional profitability survey of major refiners and a subpoena of internal planning and marketing documents of nine companies. Since January 1979, staff members of the Office of Competition have met with various participants in the five regional markets. By September 26th, a regional hearing will have been conducted in each of the five regional markets.

Some of the information presented at these hearings outlined apparent instances of subsidization. In such cases, the Office of Competition will contact the appropriate parties requesting their reaction, if any. In addition, other testimony addressed issues peripheral to subsidization of motor fuel marketing. The Office of Competition believes that such information, while not directly related to subsidization is germane. This testimony has provided background information useful for the assessment of subsidization issues.

These three hearings will be the last segment of the regional hearing phase of the Title III study. The Office of Competition anticipates that all interested parties will present written or oral data at these hearings.

## II. Specific Comments Requested

As in the first set of hearings, the Office of Competition is interested in receiving comments on the interrelated issues of subsidization of motor fuel sales, profitability of marketing at wholesale and retail, and the competitive viability of various groups in any regional markets. In particular, we would like to receive comments on the following matters:

(1) The extent of subsidization, including documentation, if possible;

(2) The effect of subsidization on competition;

(3) The approximate costs of retail and wholesale marketing of motor fuel;

(4) The role of refiner- and wholesaler-operations at retail and the impact of DOE regulations, or other important institutional factors, on competition; and proposed remedies.

In addition, the Office of Competition is interested in receiving any comments on, or reactions to, information presented at the previous set of regional hearings.

## III. Public Hearing and Comment Procedures

### A. *Written Comments*

You are invited to submit written views, data, or arguments with respect to the areas listed above. Comments should be submitted to the address indicated in the WRITTEN COMMENTS section of this notice and should be identified on the outside envelope with the designation "Title III Study". Fifteen copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room 2107, Federal Building, 12th & Pennsylvania Avenue, N.W. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Identify separately any information or data you consider to be confidential and submit it in writing, one copy only. The DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

### B. *Public Hearing*

1. Request Procedure: The time and place of the public hearing are indicated in the DATES and ADDRESSES sections of this notice. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the day following the date of the hearing. You may make an oral presentation at the hearing. Since it may be necessary to limit the number of persons making such presentation, you should be prepared to describe your interest in this proceeding, if appropriate, why you are a proper representative of a group or class of persons that has such an interest, and to give a concise summary of your proposed oral presentation.

The DOE will notify each person selected to be heard for the Memphis, TN hearing before 4:30 p.m. on October 3rd. For the Seattle, WA hearing before 4:30 p.m. on October 30th. For the Detroit, MI hearing before 4:30 p.m. on December 5th. Persons selected to be heard bring 100 copies of their statement to the hearing location on the date of the hearing.

2. Conduct of the Hearing: The Office of Competition reserves the rights to select the persons to be heard at this hearing, to schedule their respective presentation, and to establish the procedures governing the conduct of the

hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. Representatives of the Federal Trade Commission, Department of Justice, and Small Business Administration have been invited to be members of the hearing panel. This will not be a judicial or evidentiary type hearing. Only those conducting the hearing may ask questions, and there will be no cross-examination of persons presenting statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement.

The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit any questions in writing, to the presiding officer at the time of the hearing. The Office of Competition or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made, and the DOE will retain the entire record of the hearings, including the transcript, which will be made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th & Pennsylvania Avenue, N.W., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday. You may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for the DOE to cancel the hearing, every effort will be made to publish advance notice in the Federal Register of such cancellation. Moreover, DOE will notify all persons scheduled to testify at the hearing. However, it is not possible for DOE to give actual notice of cancellations or changes to persons not identified to DOE as a participant. Accordingly, if you wish to attend the hearing, you should contact the DOE on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

Issued in Washington, D.C. September 13, 1979.

Alvin L. Alm,

*Assistant Secretary, Policy and Evaluation.*

[FR Doc. 79-28966 Filed 9-18-79; 8:45 am]

BILLING CODE 6450-01-M

## Proposed Contract Award

**AGENCY:** Department of Energy.

**ACTION:** Notice of Proposed Contract Award.

**SUMMARY:** In accordance with the Department of Energy Procurement Regulations, DOE gives public notice that a contract is being awarded, after taking into account the existence of potential organizational conflicts of interest, because this procurement is determined to be in the best interests of the United States.

**FOR FURTHER INFORMATION CONTACT:** Mr. James Binkley, Office of Conservation and Solar Applications, Room 2254, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585.

### Determination and Findings

Upon the basis of the following findings and determination, the proposed contract described below is being awarded, after taking into account the existence of potential Organizational Conflicts of Interest, because this procurement is determined to be in the best interests of the United States, pursuant to the authority of Department of Energy Procurement Regulation 41 CFR § 9-1.5409(a)(3).

### Findings

(1) The Department of Energy (DOE), Office of Conservation and Solar Applications is currently developing performance standards for new commercial buildings pursuant to section 304 of the Energy Conservation and Production Act (the "Act") (Pub. L. 94-385 42 U.S.C. § 6833). The Act provides deadlines for publication of the proposed standards by August 14, 1979. Final standards are to be promulgated within six months thereafter and within one year of promulgation the standards become effective.

(2) In connection with the promulgation of these standards, it is necessary for the Office of Conservation and Solar Applications to retain skilled and experienced professionals to conduct research, collect information and perform analysis to enable DOE to develop and publish the performance standards.

DOE is under legislative directive to contract with the National Institute of Building Sciences (NIBS) (42 U.S.C. § 6838, 6840). NIBS is organized so as to represent the diverse sectors of the building industry, including manufacturers, designers, builders, owners and code officials. NIBS is distinct in being the only body that represents this diverse set of interests and abilities.

In conjunction with the work to be performed under these contracts, NIBS must make use of the following subcontractors: Syska & Hennessy, Bickle/CM, American Institute of Architects Research Corporation, T.L.A. Lighting. Consultants, Inc., Hanscomb Associates, Heery & Heery, NAHB Research Corporation, Xenergy, Inc., Harbridge House and Conservation Foundation. These contractors are unique in that they have already performed research in the area of energy performance standards. Because energy performance standards are a new concept, research leading to their development is in a fundamental stage of the art in many subject areas. The start-up time, were NIBS required to bring in a new team of subcontractors unfamiliar with this research, would be at least six months. The statutory deadlines make this alternative prohibitive.

(3) In accordance with 41 CFR § 9-1.5405, the NIBS team of subcontractors have provided disclosure of information concerning their interests related to the contract work to be performed. Specifically DOE was furnished with information concerning whether possible organizational conflicts of interest exist with respect to: (1) a contractor's ability to render impartial technically sound and objective assistance or advice, or (2) whether an unfair competitive advantage may be conferred on a contractor as a result of performing specific tasks.

(4) In order to comply with the 41 CFR § 9-1.5404 disclosure requirement, telephone conversations were made to each NIBS subcontractor to be followed up by confirmation letters from the subcontractors. Numerous questions were asked which would aid in making the judgment (1) whether based on the relationship of the specific contractor's clients and business activities to the scope of the work to be performed under the contract, as well as the impact of the BEPS standards, it would be impossible for him to render impartial, technically sound and objective assistane or advice; and (2) whether contract performance would give the contractor an unfair competitive advantage. Then, analysis of this information and comparison to the task to be performed under the contract was made. Because of the subcontractors' affiliations with designers, engineers, contractors, owners and builders, and code officials—all sectors of the building industry—the potential for bias was found to exist. In the case of the following contractors, potential organizational conflicts of interest were

recognized: AIA Research Corporation, Bickle/CM, T.L.A. Lighting Consultants Inc., Syska & Hennessy, Hanscomb Associates, Heery & Heery, NAHB Research Foundation, Xenergy, Inc., Harbridge House and Conservation Foundation.

(5) Because NIBS, and its team of subcontractors, have the unique capabilities and staffs to perform the work for the Office of Conservation and Solar Applications within the time constraints allowed, it is not feasible to disqualify these subcontractors from contract award, in accordance with 41 CFR § 9-1.5409(a)(1). Furthermore, it is not possible to avoid the potential organizational conflicts of interest by the inclusion of appropriate conditions in the resulting contract, in accordance with 41 CFR § 9-1.5409(a)(2).

(6) The enactment of these performance standards will have far-reaching benefits in terms of energy conservation to the general public. The work performed by these contractors is critical to the development of these standards. Mitigation, to the extent feasible, under § 9-1.5409(a)(3), will be obtained by (1) independent staff review by DOE officials; (2) use of existing methodology to cross-check and verify the material developed by the NIBS team; and (3) administrative procedures through which public distribution and the reception of public comment allow mitigation of potential conflicts in the data and analysis.

Determination

In light of the above findings, I hereby determine in accordance with 41 CFR § 9-1.409(a)(3) that award of this contract would be in the best interests of the United States.

Issued in Washington, D.C. September 14, 1979.

Omi G. Walden,

*Assistant Secretary Conservation and Solar Applications.*

[FR Doc. 79-29073 Filed 9-18-79; 8:45 am]

BILLING CODE 6450-01-M

## Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*) notice is hereby provided of the following meeting:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on September 25 and 26, 1979, at the headquarters of the IEA, 2 rue Andre Pascal, Paris, France, beginning at 10:00 a.m. on September 25. The purpose of this meeting is to permit attendance by representatives of the IAB at a meeting of the Standing Group on Emergency Questions (SEQ) which is being held at Paris on that date. The agenda for the meeting is under the control of the SEQ. It is expected that the following draft agenda will be followed.

A. Normal Business Section.

1. Approval of Draft Agenda.

2. Summary Record of twenty-seventh meeting.

3. Progress report by the Chairman of the SEQ Working Group on Dispute Settlement Centre.

4. Emergency Reserves.

(a) Consumer stock survey results and future work program (including IAB comments).

(b) Emergency reserves of Participating countries on July 1, 1979 (Draft of Governing Board paper).

5. Demand Restraint.

(a) Indepth review of the United States.**

(b) Indepth review of Canada.

(c) Indepth review of Sweden.

(d) Indepth review of Norway.

6. Seasonalization.

(a) Participating countries' three-year average demand and supply seasonalization.

(b) Emergency Management Manual amendment to allow the Industry Supply Advisory Group (ISAG) to take seasonality patterns into account in reallocation of oil between countries.

7. Lessons learned from present supply crisis.

(a) IAB suggestions.

(b) Summary of major issues and possible changes of the IEA Emergency System.

8. IAB and ISAG.

(a) Status of EPCA and clearance for U.S. companies to participate in IEA activities.

(b) ISAG staffing for 1980.

9. Special Section of the Information System.

(a) Base period final consumption: 2nd Quarter 1978—1st Quarter 1979, 3rd Quarter 1978—2nd Quarter 1979.

(b) Quality of July, August and September submissions of Questionnaire A and B.

10. Amendments of Emergency Management Manual.

(a) Results of Governing Board Action.

(b) Time shift of demand.

(c) Moving forward of base period.

11. Preparation for third allocation systems test (AST-3).

(a) Date of test.

(b) Moving forward of base period.

12. Budget to operate emergency system.

13. Harmonization with EEC emergency system.

(a) Differences between the systems.

(b) EEC/IEA interface.

14. Balance between IEP Articles 19 and 21.

15. Future meeting dates.

16. Any other business.

B. Assessment of Oil Supply Situation.

1. Analysis of September Questionnaire A and B submissions.

2. Oil Market position and outlook.

3. Quarterly oil forecast.

4. 5 percent demand restraint monitoring.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

Issued in Washington, D.C., September 12, 1979.

Robert C. Goodwin, Jr.,

*Assistant General Counsel, International Trade and Emergency Development.*

[FR Doc. 79-29074 Filed 9-18-79; 8:45 am]

BILLING CODE 6450-01-M

** United States review may be delayed until November SEQ meeting.

## Economic Regulatory Administration

[ERA Case No. 62008-9121-05-81]

## Argonne National Laboratory, Argonne, Ill.; Notice and Issuance of Proposed Prohibition Order Pursuant to Sections 302 and 701 of the Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice pursuant to Sections 302(a) and 403(a) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 et seq., of the issuance of the following proposed prohibition order which would prohibit the installation named below from burning natural gas or petroleum as its primary energy source.

Proposed Prohibition Order

Pursuant to the authorities granted it by Section 302(a) of FUA, ERA issues this proposed prohibition order to the following installation owned by the United States Government, managed by the Chicago Operations and Regional Office, United States Department of Energy, and operated by the University of Chicago as a Government-owned contractor-operated facility.

| ERA No. | Facility | Installation | Size | Location |
|---|---|---|---|---|
| 62008-9121-05-81 | Argonne National Laboratory | Boiler No. 5 | 212 MMBtu/hr | Argonne, Illinois. |

**Statement of Basis and Rationale for Proposed Prohibition Order**

ERA has issued regulations applicable to existing facilities (Regulations) 10 CFR Part 506, to implement the prohibitions contained in Section 302(a) of Title III of FUA. Section 506.2 of the regulations sets forth the basis upon which ERA will propose to prohibit by order the use of natural gas or petroleum as a primary energy source by an installation where ERA finds that the installation has or previously had the technical capability to use an alternate fuel as a primary energy source.

**Finding of Technical Capability**

In accordance with Section 302(a) of Title II of FUA, this proposed order is based on a finding by ERA that Argonne National Laboratory (ANL) Boiler No. 5 has or previously had the technical capability to use an alternate fuel (coal) as a primary energy source. This finding is based upon the following facts:

Boiler No. 5 was designed and constructed to burn coal as a primary energy source; and burned coal until 1973. The last full year of coal burning was 1972.

The finding is also based upon information provided by ANL to ERA during a site visit in May 1979, and during previous communications.

The technical capability finding is made in accordance with the requirements of Section 506.2 of the Regulations, taking into consideration the ability of the installation, from the point of fuel intake, to physically sustain combusion of coal and maintain heat transfer as evidenced by the burning of coal at ANL up to 1973. This finding recognizes, in accordance with Section 506.2, that boiler No. 5 is capable of burning coal, notwithstanding any required refurbishment of plant equipment in order to burn coal as a primary energy source, or any required installation of air pollution control equipment required to meet air quality standards.

**Other Required Findings**

Section 302(a) of FUA states that prior to the issuance of a final prohibition order ERA must also find that (1) the installation has the technical capability to use coal or another alternate fuel as a primary energy soruce, or it could have such capability without (A) substantial modification of the installation or (B) substantial reduction in the rated capacity of the installation; and (2) it is financially feasible for the installation to use coal or another alternate fuel as its primary energy source in such installation.

**Proposed Prohibition Under Title III of FUA**

Subject to the other required findings that ERA must make, ERA hereby proposes to prohibit ANL Boiler No. 5 from burning petroleum or natural gas as its primary energy source.

**Description of Prohibition Order Proceedings**

Pursuant to Section 302 of FUA, ERA has promulgated regulations applicable to the issuance of prohibition orders to existing facilities, a summary of which follows:

(1) ERA has performed its initial information gathering with respect to the question of technical capability to burn alternate fuels (coal) and has informed ANL that it is considering issuance of a proposed prohibition order. ERA has also had informal discussions with ANL concerning the issuance of a proposed prohibition order.

(2) ERA has made a finding that ANL has or previously had the technical capability of using coal as its primary energy source. ERA is publishing this finding and proposed prohibition order in the Federal Register as required by Section 701(b) of FUA. In accordance with Section 302(a) of FUA, the proposed prohibition order is not requied to contain, at this point in the proceeding, the other pertinent findings that ERA must make before a final prohibition order can be issued. These are (1) that the installation has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial physical modification of the installation or (B) substantial reduction in the rated capacity of the installation and (2) that it is financially feasible for ANL to use coal or another alternate fuel as a primary energy source in such installation.

(3) After publication of this proposed order, a three-month comment period will commence, during which ANL will be given an opportunity to challenge ERA's initial finding of technical capability, and to present evidence relevant to financial feasibility. During this three-month public comment period, ERA will request that ANL furnish it with such additional evidence as is necessary to enable ERA to make the other statutory findings set forth above, which are required to be made by ERA prior to issuance of a final prohibition order. ANL will also be required, during this period, to identify, but not to demonstrate its entitlement to, any exemptions for which the unit in question may qualify.

(4) Subsequent to the end of the three-month comment period, ERA will issue a notice of whether ERA intends to proceed with the prohibition order proceeding. Within three months of the issuance of the notice to proceed with the prohibition order, an owner or operator of an installation that may be subject to an order may demonstrate prior to issuance of a final prohibition order that the installation would qualify for an exemption if the prohibition had been established by rule.

(5) Subsequent to the end of the second three month period, ERA will, if it intends to issue a final prohibition order, prepare and publish notice of availability of a tentative staff decision.

(6) Under the provisions of Section 701(d) of FUA, any interested person may request a public hearing on the proposed prohibition order and tentative staff decision. Interested persons wishing a hearing must request a hearing within 45 days after publication of the notice of availability of the tentative staff decision. If a hearing has been requested, ERA shall provide interested persons with an opportunity to present oral data, views, and arguments at a public hearing held in accordance with Subpart C of 10 CFR Part 501.

(7) At the hearing, if any, interested persons will have the opportunity to question the parties about ERA's proposed order and tentative staff decision, ANL's showing on exemptions and rebuttal of ERA's proposed order, and ERA's rebuttal to any showing of potential qualification for exemption.

(8) After the hearing, if any, and comment period, ERA shall determine whether a final prohibition order will be issued based upon a review of the entire administrative record. A final prohibition order, if issued, will be published in the Federal Register. Final orders become effective sixty days after publication.

Comment Public Hearing Procedures

ERA hereby also gives notice of the opportunity to submit written comments, views, and arguments by interested persons regarding this proposed prohibition order. Comments need not be limited to ERA's technical capability finding, but may include a discussion of all three statutory findings.

The initial comment period shall remain open until December 18, 1979. Comments should make reference to the docket numbers set forth in this notice and proposed order. Comments should address the adequacy and validity of the findings and any other aspects or impacts of the proposed prohibition order believed to be relevant. Written comments on the proposed prohibition order should be directed to Public Hearing Management (Case No. 62008–9121–05–81), U.S. Department of Energy, Box 4629, Room 3214, 2000 M Street, N.W., Washington, D.C. 20461, and should be received before 4:30 p.m. on December 13, 1979.

In accordance with 10 CFR 501.34, any interested person may request a public hearing on the proposed order. The request must include a description of the person's interest in the proposed prohibition order, an outline of the anticipated content of the presentation to be made at the public hearing, and an address and telephone where the person requesting the public hearing may be reached.

Comments and other documents submitted to DOE Public Hearing Management should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for Argonne National Laboratory." Fifteen copies should be submitted. All written comments, all oral presentations, and all other relevant information submitted to or available to ERA will be considered by ERA. Any information or data considered to be confidential by the person furnishing it must be so identified in writing in accordance with 10 CFR 303.9(f). ERA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

For further information contact:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B–110, Washington, D.C. 20461, (202) 634–2170.

Robert L. Davies (Fuels Conversion Program Office), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128L, Washington, D.C. 20461, (202) 254–7442.

Walter A. Romanek (Federal Facilities Branch) Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3214–D, Washington, D.C. 20461, (202) 254–7230.

G. Randolph Comstock (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue, N.W., Room 7134, Washington, D.C. 20461, (202) 633–8820.

Issued in Washington, D.C., September 12, 1979.

Robert L. Davies,

*Acting Assistant Administrator, Office of Fuels Conversion Economic Regulatory Administration.*

[FR Doc. 79–29078 Filed 9–18–79; 8:45 am]

BILLING CODE 6450–01–M

## Proposed Gasoline Redirection Order to Maryland

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Notice of Proposed Order; Request for Comments.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has issued a proposed decision and order by which it would direct eight firms that may close 74 company-operated motor gasoline retail sales outlets in Maryland in compliance with that state's divestiture law to continue to provide Maryland with the volume of gasoline it would have supplied if those firms would not have closed such stations. The Governor of Maryland would be authorized to designate the firms to which the gasoline would be distributed. The proposed decision and order is published as an appendix to this notice.

**DATES:** Comments by September 28, 1979.

**ADDRESSES:** Comments should be submitted to Alan Lockard, Office of Petroleum Operations, Economic Regulatory Administration, 2000 M Street, NW., Washington, D.C. 20461.

**FOR FURTHER INFORMATION CONTACT:**

Alan Lockard (Office of Petroleum Operations), Economic Regulatory Administration, Room 6222, 2000 M Street, NW., Washington, D.C. 20461 (202) 254–7422.

Joel Yudson (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–6744.

Issued in Washington, D.C., September 17, 1979.

Doris J. Dewton,

*Assistant Administrator for Petroleum Operations, Economic Regulatory Administration.*

Proposed [1] Decision and Order of the Economic Regulatory Administration

*In The Matter of The Maryland Divestiture Law*

By this decision and order, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces its decision to order certain refiners and producers of motor gasoline to continue to make available in the State of Maryland volumes of motor gasoline that would otherwise be lost to that state as a result of the operation of Maryland's divestiture law. This redirection of product is taken under 10 CFR 211.14(a).[2]

*Factual Statement*

The State of Maryland enacted a statute (Md Code Ann., Art 56 section 157(E)) that prohibits a producer or refiner of petroleum products from operating directly a motor gasoline retail outlet after July 1, 1975. The statute was challenged and upheld by the United States Supreme Court (*Exxon Corp. v. Governor of Maryland*, 437 U.S. 117). Thereafter, Maryland gave covered firms until July 13, 1979 to comply with the law, and gave a number of firms additional time to apply.

ERA is informed by Maryland that as of September 13, 1979 requests for further extension will not be granted. Maryland has informed ERA that eight firms which currently have extensions expiring between September 30, 1979 and November 13, 1979 may close their company owned and operated stations to comply with the statute. A total of 74 retail outlets are currently operated directly by these firms. Other firms

[1] Although this is a proposed decision and order and will not be effective until a final order is issued after an opportunity for comment is provided to interested persons, this document is drafted as if it were a final decision and order of the agency.

[2] *Section 211.14(a) provides:*

To meet imbalances that may occur in the supplies of any allocated product, the regional or National [ERA] may order the transfer of specified amounts of any such product from one area to another or may order that different allocation fractions be used in different areas. An area, as used in this section, means a State, a group of States within a region, or any geographical part of a State or State's within a region. The National [ERA] may also order the transfer of specified amounts of any allocated product from one region to another region or may order that different allocation fractions be used in different regions to meet such imbalances. Further, the [ERA] may transfer supplies of allocated products among suppliers in order to remedy supply imbalances. The regional or National ERA will not order the transfer of an allocated product under this section from one area within a State to another within the State without the receipt of a recommendation by the State Office.

affected by the statute have already come into compliance.

The following table (using information provided by Maryland on or before September 13, 1979) identifies the firms involved, the number of stations directly operated by each firm, the approximate aggregate annual gasoline sales volume for all of the affected stations and the date after which each firm must comply with the statute:

| Company | Number of stations | Annual volume [3] (barrels) | Date extension expires |
|---|---|---|---|
| Cities Service Co. (Citgo). | 28 | 833,333 | Sept. 30, 1979. |
| B—P Oil Co | 5 | 178,571 | Sept. 30, 1979. |
| Ashland Oil Co | 14 | 619,047 | Sept. 30, 1979. |
| Amerada Hess (Hess) | 7 | 250,000 | Sept. 30, 1979. |
| Continental Oil Co. (CONOCO). | 10 | 357,142 | Nov. 13, 1979. |
| Merit Corporation | 8 | 285,714 | Nov. 13, 1979. |
| Marathon Oil Co. (Checker). | 1 | 11,904 | Nov. 13, 1979. |
| Tesoro (Diegas) | 1 | 11,904 | Oct. 31, 1979. |

[3] The supply figures are based on estimates submitted by Maryland and do not take into account the current allocation fractions of the various suppliers.

For the 74 stations, the total approximate annual sales volume is 2,547,615 barrels which, in 1978, would have represented 5.27 percent of Maryland's total gasoline supply. For the four companies which must comply by September 30—Cities Service, B–P, Amerada Hess and Ashland—the annual sales volume for their 54 stations is 1,880,951 barrels or approximately 3.9 percent of Maryland's total supply in 1978.

As of September 13, 1979, none of the 74 affected stations had been sold or leased. According to Maryland, the situation with respect to each of the firms' company-operated outlets is as follows:

(1) The Cities Service Co. intends to close all 28 company-operated outlets.

(2) B–P is attempting to sell or lease its remaining five company-operated stations. It has already sold or leased a number of others.

(3) The Ashland Oil Co. is attempting to sell its 14 company-operated stations.

(4) Conoco intends to close all ten company-operated stations.

(5) Hess intends to close all seven company-operated outlets.

(6) Merit Corporation maintains that the law does not apply to its company-operated outlets even though Amerada Hess owns a 49 percent interest in the firm. This matter is currently being litigated in the Maryland state courts.

(7) Marathon Oil Company is also litigating the law's effect on its company-operated station.

(8) Tesoro's position as to its one company-operated station is not known.

In addition to the company-operated stations, Citgo, B–P and Amerada Hess each have branded independent marketers that they supply in the state. Ashland, Conoco, Merit Corporation, Marathon and Tesoro supply no other gasoline outlets other than those that are company owned and operated.

*Analysis*

Under the allocation regulations, when any motor gasoline retail sales outlet, including a company-operated outlet, goes out of business its base period supplier's obligation to supply that outlet ceases and the supplier is required to distribute the product which would have gone to the closed outlet to all of its other base period customers [4] (See FEA Ruling 1974–13). To the extent that the supplier has no other customers in the state, all of the product supplied to that state by the closed outlet would be lost to the state. Even if the supplier has other customers in the state, these retail outlets will receive only a fraction of the supply which would have gone to the supplier's own retail outlets since the supply must be allocated equally among all the supplier's customers. Thus, if Maryland's divestiture law has the effect of causing the eight affected companies to close their company-operated outlets, Maryland will lose much of the allocations of those stations.[5]

If all of the affected stations close, assuming the Maryland data to be correct, up to 5.2 percent of Maryland's supplies could be diverted from the state. Such a loss would effectively reduce the allocation entitlement of gasoline deliverable in Maryland and would cause a supply imbalance within the state. Moreover, the Governor of Maryland and his representatives have indicated to us that in the areas supplied by the affected stations reductions in the amounts supplied these stations will cause serious shortage problems in light of the allocation fractions under which other stations in these areas are being supplied.

[4] The currently suspended downward adjustment and certification provision of § 211.107(d) is not relevant to this analysis because we are only dealing in this case with refiner company-operated outlets. In this instance, the refiners would not have a supplier to whom the volumes would revert under a downward certification provision.

[5] If any company-operated outlets are sold or leased to another firm, the allocation entitlement associated with the outlet would be transferred to such other firm under 10 CFR 211.105(e).

ERA has taken a neutral position on state divestiture laws and this order does not alter that stance. We recognize, however, that the existence of allocation controls prevents the market place from adjusting as it otherwise might to a massive closing of stations of the sort Maryland may experience. Moreover, the station closings involved in this instance are not the sort which the allocation system contemplated. These closings would not be the result of a shift in population or other demand-reducing factor but would be attributable to the enactment of a state law coupled with the companies' refusal or inability to sell or lease their stations. The loss would be both large and sudden. Although the allocations system does not allocate supplies by state, we believe that in these unusual circumstances, Maryland's supplies should be protected at least for an interim period. We intend to examine this issue in a rulemaking proceeding and will issue a notice to that effect shortly.

The thrust of this order is not to give additional product to Maryland at the expense of other states. Our intent is to allow Maryland to maintain the same supply of gasoline it would have had in the absence of the divestiture law.

In addition, it does not appear that the issuance of this order will cause severe harm to any person. Although the eight companies may prefer to shift the Maryland supplies to other customers in their distribution system, such customers will not suffer an actual reduction in supplies because of our action.

There remains the question of how the product should be distributed in Maryland when the retail outlets that originally distributed them are closed. We have determined that the Governor of Maryland or his delegate is in a better position than DOE to designate the firms to receive the product. The State has stated it is willing to assume this responsibility. Therefore, we are delegating such authority to the Governor or his delegate. We are requiring that in the exercise of such delegated authority, the Governor or his delegate shall to the extent practicable cause the distribution to occur in the same marketing areas in which retail outlets were closed because of the divestiture law.

Finally, if one of the affected companies sells or leases after the effective date of this order one or more of the stations it closed, the volume supplied to such stations will be deducted from the amount of product to be distributed under this order and the leased or sold stations will be entitled to

the former allocations of the company-operated outlets.

*Order*

1. Effective October 1, 1979, Cities Service Oil Co., B–P Oil Co., Amerada Hess and Ashland Oil Co., Inc., are directed to distribute to those firms designated pursuant to paragraph 4 of this order the volumes of motor gasoline that would have been distributed to company-operated retail sales outlets that close to comply with Md. Code Ann., Article 56, section 157(E).

2. Effective November 1, 1979, the Tesoro Petroleum Company is directed to distribute to those firms designated pursuant to paragraph 4 of this order the volume of gasoline that would have been distributed to its company-operated retail sales outlet that closes to comply with Md. Code Ann., Article 56, section 157(E).

3. Effective November 14, 1979, Continental Oil Co., Marathon Oil Co., and Merit Corp. are directed to distribute to those firms designated pursuant to paragraph 4 of this order the volume of motor gasoline that would have been distributed to their company-operated retail outlets that close to comply with Md. Code Ann., Article 56, section 157(E).

4. The Governor of the State of Maryland, or his delegate, shall designate the firms to which the gasoline distributed under Paragraphs Nos. 1, 2 and 3 of this order shall be sold. The firms designated shall be selected so that the gasoline distributed will be sold in those marketing areas of the State in which supplies would otherwise be reduced because of the outlet closings.

5. This Order is based on the presumed validity of the statements, allegations, and documentary materials cited herein. It may be rescinded, revoked, or otherwise modified at any time upon a determination that the factual basis for the Order is erroneous, or that a change in the circumstances upon which the Order is based has occurred, or on the basis of general regulatory provisions which the ERA may adopt.

6. In accordance with the provisions of 10 CFR Part 205, any person aggrieved by this Order may file an appeal with the Office of Hearings and Appeals of the Department of Energy. The provisions of 10 CFR Part 205, Subpart H, govern the filing and determination of any such appeal.

Issued in Washington, D.C., September 17, 1979.

Doris J. Dewton,

*Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.*

[FR Doc. 79-29268 Filed 9-18-79; 9:53 am]

BILLING CODE 6450-01-M

## Office of Hearings and Appeals

### Issuance of Decisions and Orders; Week of March 5 Through March 9, 1979

Notice is hereby given that during the week of March 5 through March 9, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

*Appeals*

Caldo Oil Company, Inc.; San Jose, California; DEA–0132;

Major Oil Company; Stockton California; DEA–0133;

Miles Oil Company, Inc.; Colfax, California; DEA–0134;

Olympian Oil Company; San Francisco, California; DEA–0135;

Ramco Oil Company, Inc.; W. Sacramento, California; DEA–0136;

Rinehart Oil, Inc.; Ukiah, California; DEA–0137;

Red Triangle Oil Company, Inc.; Fresno, California; DEA–0138; Crude Oil.

The above-named firms filed Appeals from two Decisions and Orders which were issued to the Gulf Oil Corporation by the ERA Office of Fuels Regulations. Under the terms of those Orders, Gulf would be permitted to withdraw from all marketing and distribution activities in the northwest United States. The seven appellants are all base period purchasers of motor gasoline from Gulf. In their submissions, the appellants stated that the two ERA Orders are erroneous in their findings of harm to Gulf if it were required to continue to supply the appellants and of harm to the appellants if Gulf were permitted to withdraw from the area. The appellants also contended that they were denied due process because the ERA deleted confidential information which formed the basis for the Orders. In considering the Appeals, the DOE found that the two Orders accurately assessed the harm which Gulf would experience if it were required to continue to supply the appellants following its withdrawal from the Northwest. The DOE also determined that any adverse impact which the appellants might experience as a result of Gulf's withdrawl would not be caused by DOE regulations, since they would merely be placed in the same position as all other indpendent marketers in the area. Finally, the DOE found that the ERA's decision to withhold confidential data did not violate due process since Gulf subsequently released the data to the appellants. Accordingly, the seven Appeals were denied.

Exxon Company, U.S.A.; Washington, D.C. DFA–0304, Freedom of Information.

Exxon Company, U.S.A. appealed from a partial denial of a Request for Information that the firm submitted under the Freedom of Information Act (the Act). In its request, Exxon sought documents containing all statements and resolutions of matters relating to the provisions of Section 5.107 of the ERA Enforcement Manual. The Director of Freedom of Information and Privacy Act Activities released several documents to Exxon but withheld others on the grounds that they fell within the scope of the exemption for inter-agency and intra-agency memoranda specified in 5 U.S.C. 552(b)(5). In considering the Appeal, the DOE determine that the documents requested by Exxon concerned matters which have arisen in the course of enforcement proceedings and therefore were predecisional in nature and properly withheld from mandatory disclosure under Exemption 5. In addition the DOE found that disclosure of the documents requested would not be in the public interest. Accordingly, the Appeal was denied.

Richard Levy; Alexandria, Virginia; DFA–0305, Freedom of Information.

Richard Levy appealed from a partial denial of a request for information which he had filed under the Freedom of Information Act. In his request, Levy sought copies of DOE memoranda concerning enforcement policy in small cases. In response to Levy's request, the DOE initially withheld portions of one document. In considering the Appeal, the DOE determined that most of the information withheld had already been released to the public in substantial form and therefore concluded that it should also be released to Levy in its entirety. Accordingly, the Appeal was granted.

Shell Oil Company; Houston, Texas; FRA–1319, Motor Gasoline.

Shell Oil Company filed an Appeal of a Remedial Order that was issued to it by FEA Region VI on April 26, 1977. In the Remedial Order, the FEA determined that Shell's termination of certain credit card privileges to its customers on June 1, 1974 had violated the provisions of 10 CFR 210.62, which states that suppliers may not impose more stringent credit terms on purchasers than those in effect on May 15, 1973. The Remedial Order therefore directed Shell to make refunds to its dealers and either to restore credit card privileges or to reduce its selling prices by an amount that reflects the savings to Shell resulting from the discontinuance of the credit card. In considering the Shell Appeal, the DOE noted that it had previously rejected the contention that the withdrawal of credit card privileges does not impose more stringent credit terms. *See Exxon Company, U.S.A.*, 2 DOE Par. 80,150 (1978). The DOE also found various procedural and substantive arguments raised by Shell to be without merit. With regard to the payback provisions, the DOE determined that the Remedial Order permits Shell to exclude from

the refunds the applicable expenses that dealers would have incurred if Shell had not discontinued credit card privileges. In addition, the DOE modified the Remedial Order to provide that should Shell choose not to reinstate credit card privileges, it must reduce its maximum allowable selling prices rather than its current selling prices. Accordingly, the Shell Appeal was denied except to the extent described above.

Trends Publishing, Inc.; Washington, D.C.; DFA-0285, Freedom of Information.

Trends Publishing, Inc. appealed from a partial denial by the DOE of a request for information that the firm had submitted. In its Appeal, Trends requested the release of portions of seven documents that had been withheld pursuant to 5 U.S.C. 552 (b)(1) and (3) (Exemptions 1 and 3) and portions of two documents withheld pursuant to 5 U.S.C. 552 (b)(6) (Exemption 6). In considering the Appeal, the DOE determined that the material withheld pursuant to Exemption 1 was properly classified in accordance with the provisions of Executive Order 12065 and therefore was exempt from mandatory disclosure. In addition, the DOE found that the classified material contained in three other documents was properly deleted pursuant to Exemption 3 since it fell within the definition of "Restricted Data" as set forth in the Atomic Energy Act. With respect to the names of individuals deleted from two documents pursuant to Exemption 6, the DOE noted that a determination in such cases requires a balancing of the interest of personal privacy against the public's right to information. Since there was no indication that such a weighing of interests had occurred, the DOE remanded the mattter to the Director of the DOE Office of Safeguards and Security.

*Remedial Order*

Michaelson Producing Co.; Regan County, Tex.; DRO-0068; Crude oil.

Michaelson Producing Company filed a Statement of Objections to a Proposed Remedial Order which DOE Region VI issued to the firm on May 25, 1978. In the PRO, Region VI found that Michaelson had incorrectly aggregated a number of producing wells to form three properties and had sold the crude oil produced from these properties at prices which were in excess of the maximum lawful prices. In considering Michaelson's objections, the DOE determined that it was a proper exercise of discretion to issue the PRO to the operator of the properties rather than to the working and royalty interest owners. The DOE also rejected Michaelson's argument that interest should not be assessed on the overcharges. However, the DOE determined that the refund requirements of the PRO would seriously impair Michaelson's financial viability. The DOE therefore remanded the PRO to the Regional Office for a modification of the refund provisions. The DOE further concluded that in view of the inaccuracies inherent in the audit methodology applied to one of Michaelson's wells, the overcharges based upon a finding of an average daily production of 10.005 barrels for that well were unreasonable. The DOE therefore held that the overcharges alleged for that well should be eliminated from the PRO. Accordingly, the Statement of Objections was granted in part and the PRO was remanded.

*Petition for Special Redress*

Michael Truax; Salem, Oreg.; Refined petroleum products; DSG-0044; DES-0156.

Michael Truax filed a Petition for Special Redress in which he requested that a subpoena issued to him by the Western District Office of Enforcement be quashed. In considering the Petition, the DOE observed that the subpoena issued to Michael Truax was virtually identical to a subpoena previously issued to Merritt W. Truax. The DOE further observed that the arguments raised by Michael Truax in his Petition had previously been raised by Merritt W. Truax and rejected by the DOE. *Merritt W. Truax*, 3 DOE Par. 82,530 (1979). On that basis, the DOE found that Michael Truax had failed to establish a reasonable probability that he would be able to satisfy the applicable standards of review. The Petition for Special Redress was therefore dismissed.

*Requests for Exception*

Alp Oil Co., Inc.; Des Peres, Mo.; DEO-0065; Motor gasoline.

Alp Oil Company filed an Application for Exception, which, if granted, would relieve the firm of its obligation to refund certain overcharges relating to sales of motor gasoline. During the consideration of the firm's exception request, Alp entered into a Consent Order with the ERA regarding the overcharges. Since there was no longer a basis for granting exception relief, the DOE dismissed Alp's Application for Exception without prejudice to a resubmission at a future date.

Amerada Hess Corp.; New York, N.Y.; DEE-2073; Crude oil.

Amerada Hess Corporation (AHC) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil produced from the Tioga Madison Unit, located at North Dakota. In considering the Application, the DOE determined that AHC did not have an economic incentive to continue production from the unit. On the basis of this finding and in accordance with the methodology established in previous Decisions, the DOE permitted AHC to sell 46.35 percent of the crude oil produced from the Tioga Madison Unit for the benefit of the working interest owners at upper tier prices for a six month period.

Atlantic Richfield Co.; Los Angeles, Calif.; DEE-1981, DES-1981; Motor gasoline.

Atlantic Richfield Company (Arco) filed an Application for Exception from the provisions of 10 CFR, Part 211, which, if granted, would relieve the firm of its obligation to supply motor gasoline to eight of its base period purchasers. In its Application, Arco stated that it did not have sufficient supplies of motor gasoline to satisfy the needs of all its customers, and therefore its sales obligations to the eight refiners would compel it to choose between imposing an allocation fraction and purchasing additional motor gasoline at higher prices. In considering the exception request, the DOE determined that Arco had not demonstrated that the regulatory requirement that it maintain relationships with eight refiners with which it competed was unique or affected Arco in a manner significantly different from the general effect of the allocation program on all refiners. Instead, it appeared that the ultimate effect of granting the exception request would be to transfer Arco's problems to others. Accordingly, the Arco Application for Exception was denied.

Champlin Petroleum Co.; Fort Worth, Tex.; DEE-2011; Crude oil.

Champlin Petroleum Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to charge upper tier ceiling prices for the crude oil to be produced from the O'Conner FQ-40 property, located in Refugio County, Texas. In considering the application, the DOE determined that in the absence of exception relief the firm would have no economic incentive to invest in saltwater disposal equipment necessary to increase production at the property. In addition, the DOE concluded that if exception relief were not granted Champlin would have to shut in the wells at the property, thereby depriving the nation of an estimated 236,000 barrels of recoverable crude oil. Therefore, in accordance with precedents established in previous Decisions, the DOE determined that exception relief should be approved which would enable Champlin to attain a 23 percent rate of return on the capital investment necessary to continue production activities at the property. Accordingly, Champlin was permitted to sell at upper tier ceiling prices 29.36 percent of the crude oil produced from the O'Conner property for the benefit of the working interest owners.

*Charter Oil Co., Houston, Tex., DEE-1475 residual fuel oil*

The Charter Oil Company filed an Application for Exception in which it requested entitlement benefits for residual fuel oil purchased in California and resold on the East Coast. Charter argued that it would have no economic incentive to transport residual fuel oil from California in the absence of exception relief. Charter also argued that the approval of an exception would alleviate inequities being experienced by West Coast refiners and East Coast consumers and would further a number of important national policy objectives.

In considering the Charter request, the DOE examined in detail the current market conditions for medium and high sulfur residual fuel oil on the West Coast. The DOE concluded that West Coast refiners were in fact experiencing difficulties in marketing residual fuel oil and that those difficulties could be alleviated by the approval of an exception which facilitated the transportation of residual fuel oil from California to the East Coast. However, the DOE also observed that an exception constitutes a form of special treatment which gives a competitive advantage to the firm receiving it and is therefore appropriate only in limited

circumstances. After reviewing the entire record, the DOE determined that the difficultuies encountered by West Coast refiners in marketing residual fuel oil were primarily attributable to a number of environmental, geographic, and regulatory factors which the DOE does not control. The DOE concluded that under these circumstances, it would not be appropriate to grant the exception requested by Charter. The DOE also rejected Charter's contention that various regulatory provisions, including the East Coast residual fuel oil entitlements program, the export sales deduction, and the motor gasoline cost passthrough, have caused Charter to experience an inequity. The Charter exception request was therefore denied.

*G. R. Nance Co., Inc., Los Angeles, Calif., DEE-0957, crude oil*

G. R. Nance Co., Inc. filed an Application for Exception, which, if granted, would permit the firm to sell the crude oil produced from the Nance Blinn #1 Well of the Desser Et AL Lease (the Desser Lease) located in Wilmington, California, without regard to the maximum price levels specified in 10 CFR, Part 212, Subpart D. In its application, Nance requested that the Desser Lease be classified as a "stripper well property" as that term is defined in Section 212.54, even though the Lease had not been in operation for twelve consecutive months. In considering the request, the DOE concluded that Nance's projections that the firm would suffer financial hardship if its requests were not granted did not form the basis for exception relief. The DOE also noted that although Nance submitted material which purported to demonstrate that the Desser Lease would produce crude oil at an average rate of ten barrels or less per day for its first 12 consecutive months of operation, such a showing alone could not justify exception relief. Accordingly, Nance's exception application was denied.

*Laketon Asphalt Refining, Inc., Evansville, Ind., DXE-2029, crude oil*

Laketon Asphalt Refining, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of its obligation to purchase entitlements for the months of February through July 1979. In considering the request, the DOE determined that since exception relief previously granted to Laketon would enable it to attain a net entitlement sales position for its fiscal year 1978, the firm should be required to begin making restitution for the excessive entitlement benefits that it had received. Accordingly, Laketon was required to purchase entitlements with a value of $37,325 during each month of a consecutive six month period. With respect to Laketon's exception request concerning receipts and runs to stills in fiscal year 1979, the DOE determined that the material submitted by Laketon could properly be evaluated in the context of a separate proceeding. Accordingly, on its own motion, the DOE included that material in a separate proceeding (Case No. DXE-2113).

*Old Dominion State Gift Shop, Oak Hill, Va., DEO-0145, motor gasoline*

Old Dominion State Gift Shop filed an Application for Exception from the provisions of 10 CFR, Part 211.12, which, if granted, would increase the firm's base period use of motor gasoline. In its application, Old Dominion stated that an increased allocation was necessary to meet the rising demand at its retail outlet resulting from an increase in tourism in the area and lower prices. On November 3, 1978, DOE Region III issued a Proposed Decision and Order which determined that the Old Dominion application should be denied. In the Statement of Objections which Old Dominion subsequently filed, the firm claimed that it was able to sell additional quantities of motor gasoline and therefore should receive an increase in its allocation. In considering the Statement of Objections, the DOE concluded that Old Dominion had not demonstrated that it would experience a serious hardship, a gross inequity, or an undue distribution of burdens in the absence of exception relief. Accordingly, Old Dominion's Application for Exception was denied.

*Standard Oil Company of Ohio, Cleveland, Ohio, DEE-1995, crude oil*

Standard Oil Company of Ohio (Sohio) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil produced for the benefit of the working interest owners of the Barndt Lease, located in the Sage Creek Field in Wyoming. In considering the exception request, the DOE found that Sohio's operating costs with respect to the Barndt Lease had increased to the point where the firm no longer had an economic incentive to continue the production of crude oil from the property. Accordingly, on the basis of the criteria applied in previous Decisions, the DOE determined that Sohio should be permitted to sell at upper tier ceiling prices 36.07 percent of the crude oil produced for the benefit of the working interest owners of the Barndt Lease through June 30, 1979.

*Texaco, Inc., Oak Brook, Ill., FEE-4836, refined petroleum products*

Texaco, Inc. filed an Application for Exception from the provisions of 10 CFR 211.9(a), which, if granted, would permit it to terminate its base period supplier/purchaser relationship with Mr. Carl Fyffe, d/b/a Central Kentucky Petrolum, Inc. (CKP). On March 13, 1978, the DOE issued a Proposed Decision and Order which tentatively determined that the Texaco request should be denied. On May 8, 1978, Texaco filed a Statement of Objections to the Proposed Decision. However, on January 16, 1979, the Director for Fuels Regulations of ERA Region IV approved a request by CKP for the termination of its base period relationship with Texaco. Accordingly, the Texaco exception request was dismissed.

*True Oil Co., Casper, Wyo., DEE-1969, crude oil*

True Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell at market prices the crude oil produced from the Laubach Lease, located in McCone County, Montana. In considering the exception request, the DOE found that True's operating costs had increased to the point where the firm no longer had an economic incentive to continue the production of crude oil from the Laubach Lease. Therefore, on the basis of the criteria applied in previous Decisions, the DOE determined that True should be permitted to sell at upper tier ceiling prices 38.85 percent of the crude oil produced for the benefit of the working interest owners of the Laubach Lease.

Motion for Discovery—Motion for Evidentiary Hearing

*Cooper and Brain, Inc., Wilmington, Calif., DED-1405, DEH-1405, crude oil*

Cooper and Brain, Inc. filed a Motion for Discovery and a Motion for Evidentiary Hearing in connection with its statement of Objections to a Proposed Decision and Order which the Office of Hearings and Appeals issued to the firm on October 16, 1978, Case No. DEE-1405. The discovery motion, if granted, would result in the issuance of an Order directing certain DOE officials to provide answers to several interrogatories and copies of documents relating to the promulgation of Ruling 1975-12 to support the firm's claim that the ruling constitutes an impermissible retroactive change in regulatory requirements. In considering the motion, the DOE determined that discovery was inappropriate since the contentions raised with respect to Ruling 1975-12, even if sustained, were insufficient as a matter of law for the approval of exception relief. In considering the Motion for Evidentiary Hearing, the DOE determined that Cooper and Brain had not satisfied the applicable procedural requirements. Accordingly, Cooper and Brain's Motion for Discovery was denied and its Motion for Evidentiary Hearing was dismissed without prejudice.

Supplemental Order

*Commonwealth Oil Refining Co., Inc., San Antonio, TX., DEX-0142, crude oil*

On September 12, 1978, the DOE issued a Decision and Order to the Commonwealth Oil Refining Company, Inc. (Corco) which approved exception relief to facilitate the use of crude oil produced in California in Corco's Puerto Rican refinery. *Commonwealth Oil Refining Company, Inc.*, 2 DOE Par. 81,069 (1978). In that Order, the DOE stated that it would adjust the level of exception relief if the actual costs incurred by the firm were lower than those projected. After reviewing a report submitted by Corco for the third quarter of 1978, the DOE reduced the amount of relief previously authorized by $34,891.

Requests for Stay

*Priam Trading Co., Dallas, Texas, Crude Oil, DES-0164*

Priam Trading Company filed an Application for Stay pending a review on the merits of an Application to Quash a subpoena and a Petition for Special Redress which the firm had filed. In considering the stay request, the DOE determined that Priam could suffer an irreparable injury if it were required to respond to the subpoena before

its other submissions were considered. Accordingly, the Application for Stay was granted.

*Standard Oil Co. (Indiana), Chicago, Ill., DES-0338, crude oil*

The Standard Oil Company (Indiana) (Amoco) filed an Application for Stay of an Order issued to the firm by the Office of Fuels Regulation of the ERA on February 21, 1979. In that Order, the ERA directed Amoco to sell 600,000 barrels of crude oil to the Rock Island Refining Corporation. The Application for Stay, if granted, would temporarily relieve the firm of that obligation pending a determination on an Appeal of the Order. In considering the stay request, the DOE noted that Amoco had not submitted any material documenting the nature or magnitude of the irreparable injury which the firm claimed it would incur if the Order were implemented immediately. The DOE also determined that Amoco had failed to demonstrate that it was likely to prevail on the merits of its Appeal. Accordingly, the Amoco Application for Stay was denied.

Requests for Temporary Stay

*Acomi Petroleum, Marblehead, Mass., DST-0014, motor gasoline*

Acomi Petroleum filed an Application for Temporary Stay of the provisions of the Standby Petroleum Product Allocation Regulations which the ERA activated on February 22, 1979. In connection with the Acomi request, the DOE convened a hearing in order to provide an opportunity for all interested parties to make oral presentations. At the conclusion of the hearing, the DOE determined that an irreparable injury would occur unless a stay were granted. Accordingly, the DOE directed the Director of Operations of ERA Region I to issue orders on or before March 13, 1979 assigning suppliers to supply Acomi with 178,000 gallons of motor gasoline during the period March 15 to March 31, 1979.

Stechschulte Gas & Oil Co.; Owosso, Michigan; DST-0015, motor gasoline.

Stechschulte Gas & Oil Co. filed an Application for Temporary Stay of the provisions of the Standby Petroleum Product Allocation Regulations which the ERA activated on February 22, 1979. The temporary stay was sought on behalf of all branded jobbers of the Union Oil Company of California. In connection with the stay request, the DOE convened a hearing in order to provide an opportunity for all interested parties to make oral presentations. At the conclusion of the hearing, the DOE conditionally certified Stechschulte as the representative of the class of branded Union jobbers. In addition, the DOE determined that an irreparable injury would occur unless the Application for Temporary Stay were granted. Consequently, the DOE directed Union Oil Company to calculate the base period for its branded jobbers on the basis of their purchases between May 1, 1978 and January 31, 1979.

*Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline*

The following firms filed Applications for Stay and/or Temporary Stay of the provisions of Standby Regulation Activation Order No. 1. The stay requests, if granted, would result in an increase in the base period allocation of motor gasoline pending determination of the Applications for Exception. The DOE issued Decisions and Orders which determined that the stay requests be granted:

King & King Enterprises, Inc.; Kansas City, Missouri; DST-2240;
Pilot Petroleum Associates Inc.; Ronkonkema, New York; DST-2243;
Kerr-McGee Corp.; Oklahoma City, Oklahoma; DST-2244;
Ken Warbrick Chevron; Corona, California; DES-2249.

The following firm filed an Application for Temporary Stay from the provisions of Standby Regulation Activation Order No. 1, The temporary stay request, if granted, would result in an increase in the firm's base period allocation of motor gasoline pending determination of the firm's Application for Exception. The DOE issued a Decision and Order which determined that the temporary stay request be denied:

Keller-Piasa Terminal, Inc.; Hartford, Illinois; DST-2234.

*Dismissals*

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Earman Oil Co.; Vero Breach, Florida; DST-2264, DEE-2264;
General Oil Co.; Sikeston, Missouri; DEE-2185;
James Rice; Detroit, Michigan; DEE-2242;
Trans Ocean Oil, Inc.; Houston, Texas; DEE-2216;
United Refining Co.; Warren, Pennsylvania; DEE-2224.

The following submissions were dismissed on the grounds that the requests are now moot:

Chevron U.S.A.; San Francisco, California; DES-2135;
Penn Oil Fuel Oil Co.; New York, New York; DRO-0008.

The following submission was dismissed on the grounds that recent regulatory changes have eliminated the need for the exception relief requested:

High Oil Co., Inc.; Washington, D.C.; DEE-2031, DEN-2031.

The following submissions were dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained:

Bonham, Carrington, Fox; Houston, Texas; DFA-0334;
Richard Levy; Alexandria, Virginia; DFA-0339; DFA-0341.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

September 10, 1979.

Melvin Goldstein,

*Director, Office of Hearings and Appeals.*

[FR Doc. 79-29075 Filed 9-18-79; 8:45 am]
BILLING CODE 6450-01-M

## Issuance of Decisions and Orders; Week of March 26 Through March 30, 1979

Notice is hereby given that during the week of March 26 through March 30, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

*Appeal*

Crystal Oil Company; Shreveport, Louisiana; DEA-0253, crude oil.

Crystal Oil Company filed a petition styled as an Appeal from the Entitlement Notices for the months of April 1978 (published in June 1978) and August 1978 (published in October 1978). If the Crystal Appeal were granted, the firm would be accorded additional entitlements benefits to compensate it for certain allegedly improper adjustments made by the Economic Regulatory Administration (ERA) of the DOE in calculating the firm's purchase/sales obligations under 10 CFR 211.67. As a result of the ERA's adjustments, Crystal was required to purchase additional entitlements during June and October 1978. In considering the Appeal, the DOE observed that the adjustments made by the ERA resulted from other adjustments made by Crystal in its entitlements reports for April 1978 and August 1978. The adjustments made by Crystal were to correct its reported receipts of crude oil during the period October 1975 through March 1976. However, during the operational period October 1975-March 1976, Crystal had been exempted from any entitlement purchase obligation by Section 403(a) of the Energy Policy and Conservation Act as implemented by the Federal Energy Administration in Special Rule No. 6. Consequently, the DOE determined that although the ERA may require a firm to file reports in which it specifies its actual crude oil receipts during the period of the statutory exemption, and may also require that the firm correct those reports when it receives more accurate data, the ERA generally may not use those reports to require the firm to purchase

additional entitlements to account for crude oil that would have been exempt if it had been reported correctly when it was actually received. Accordingly, Crystal's Appeal was granted, and the firm was permitted to sell additional entitlements in an amount equal in dollar value to the dollar value of the improper adjustments that were reflected in the Entitlement Notices for the months of April 1978 and August 1978.

*Request for Exception*

Saber Refining Company; Corpus Christi, Texas; DEE-0425, crude oil.

Saber Refining Company filed an Application for Exception from the provisions of 10 CFR 211.67(e)(2). The exception request, if granted, would result in the issuance of additional entitlements to the firm for crude oil which Saber intended to have processed for its account by other refiners. On July 7, 1978, the Department of Energy issued a Proposed Decision and Order denying the Saber exception request. In considering the Saber exception request and Statement of Objections to the Proposed Decision and Order the DOE noted that Saber had not made any showing that it suffered a serious adverse consequence as a result of receiving a reduced level of small refiner bias benefits during the month of December 1977 when Saber's operations were temporarily curtailed in order to complete its refinery expansion project. The DOE also noted that Saber did not even file its initial exception request until more than six months after it had begun construction on its new refinery capacity, which indicated that the firm did not anticipate that exception relief would be necessary in order to permit it to expand its refinery capacity. The DOE therefore concluded that Saber has requested an exception from Section 211.67(e)(2) solely to increase the profits which the firm realized during its 1978 fiscal year. Accordingly, the Saber Application for Exception was denied.

Requests for Stay

*Charter Oil Co., Jacksonville, Fla., DES-0180, crude oil*

Charter Oil Company filed an Application for Stay of the provisions of 10 CFR 211.67 (the Entitlements Program). Charter's request, if granted, would have stayed 100 percent of the firm's obligation to purchase entitlements during the month of March 1979 and subsequent months pending a determination on an Application for Exception which the firm had filed. Subsequent to the filing of the Charter stay request the DOE issued a Proposed Decision and Order with respect to its exception application. The Proposed Decision and Order expressed the tentative determination that Charter should be relieved of a portion of its projected entitlement purchase obligation. On its own motion the DOE also issued a stay of Charter's entitlement purchase obligation in the amount specified in the Proposed Decision and Order. In considering Charter's request to stay 100 percent of its entitlement purchase obligation the DOE determined that the firm had failed to submit any material in support of a finding that an amount of exception relief greater than that found appropriate in the Proposed Decision and Order was warranted. Charter's stay request was therefore denied.

*Devon Corp. and D'Arbonne Energy Corp., Dubach, La., DES-0156, natural gas liquids*

Devon Corporation and D'Arbonne Energy Corporation jointly filed an Application for Stay of the provisions of Part 212, Subpart E that require the firms to calculate their increased costs of natural gas shrinkage on a firmwide basis. The firms requested that they be permitted, pending a decision on an Application for Exception that they filed seeking the same relief, to calculate increased product costs on a plant-by-plant basis in accordance with Subpart K of Part 212. The DOE concluded, however, that the firms had failed to satisfy the criteria for approval of stay relief set forth in Section 205.125(b) of the DOE procedural regulations. The DOE found that the firms had not submitted evidence sufficient to support their claims of extraordinary financial burdens in connection with compliance with Subpart E or of serious disruption in the markets for the products that they produce. The DOE also found no merit in the firms' claim that no other person would be affected by the relief, noting that some of the firms' customers might well be charged higher prices if stay relief were granted. Finally, the DOE concluded that the firms had failed to demonstrate at the initial stage of the exception proceeding that there existed the very strong likelihood of success on the merits that is necessary to justify a stay pending an application for exception. The Devon and D'Arbonne Application for Stay was therefore denied.

*Standard Oil Co. (Indiana), Chicago, Ill., DES-2817, DST-2817, energy, information*

The Standard Oil Company (Indiana) (Amoco) filed an Application for Stay and an Application for Temporary Stay of its obligation to prepare and file Financial Reporting System (FRS) Form EIA-28, pending a determination on an Application for Exception that it concurrently filed. The DOE concluded, however, that Amoco's Application for Stay failed to satisfy the criteria for stay relief contained in Section 205.125(b) of the DOE procedural regulations. The DOE found no basis for Amoco's claim that it would incur irreparable injury if required to file Form EIA-28 before the deadline specified by the Energy Information Administration or that it would be impossible for the firm to do so. The DOE also found that Amoco had failed to demonstrate a very strong likelihood that its exception request would be granted. Finally, the DOE observed that the timely submission of the information requested of Amoco and other major energy producing firms was essential to the development of national energy policy. The DOE therefore concluded that the public interest would best be served if the submission by Amoco of Form EIA-28 was not delayed, and the Amoco Application for Stay and Application for Temporary Stay were therefore denied.

*Stechschulte Gas & Oil Co., Union Oil Co., of Calif. Owosso, Mich., Washington, D.C. DES-0188, DMR-0043, motor gasoline*

Stetschulte Gas & Oil Company filed an Application for Stay of the provisions of Standby Regulation Activation Order No. 1. Stechschute also filed an Application for Class Certification. If the Applications were granted, all branded jobbers of the Union Oil Company of California would receive increased base period allocations of motor gasoline for the months of March, April and May 1979, pending a final Decision and Order on an Application for Exception which Stechschulte intends to file. In considering the Application for Class Certification, the DOE determined that Stechschulte had satisfied the criteria established for class representation with respect to branded Union Jobbers in PADs I, II and III, but that jobbers in PADs IV and V should not be included in the class because their factual and legal posture was different. Accordingly, the Application for Class Certification was granted in Part. In considering the Application for Stay, the DOE determined that the new allocation regulations would result in immediate and irreparable hardship to the class of Union jobbers if a stay were not granted, as a result of the unavailability of leaded regular motor gasoline during the new base period. Accordingly, the DOE granted a stay which directed Union during March, April and May 1979 to supply each branded jobber in PADs I, II and III on the basis of its average monthly volumes of motor gasoline purchased during the period May 1, 1978 through January 31, 1979, with appropriate adjustments for seasonal and trading day factors. In addition, the DOE determined that the base period allocations of firms that made spot purchases of leaded regular gasoline from Union during the period March 1, 1978 through May 31, 1978 should be reduced by ten percent.

*Sun Oil Co., (Pa.), Philadelphia, Pa., DES-0189, DES-0347, crude oil*

The Sun Oil Company of Pennsylvania (Sun) requested that the Department of Energy stay two Emergency Supplemental Allocation Orders which were issued to the firm by the Economic Regulatory Administration pursuant to the Mandatory Crude Oil Allocation Program (Buy-Sell Program). The two Orders directed Sun to sell 151,900 barrels of suitable crude oil to Gladieux Refinery, Inc. (Gladieux) and 123,100 barrels of suitable crude oil to the Rock Island Refining Corporation (Rock Island). The Sun Applications for Stay, if granted, would have temporarily relieved the firm of these crude oil sales obligations pending a determination on administrative appeals of the two Orders. In considering the Sun Stay requests, the DOE determined that the firm had not demonstrated that it would experience irreparable injury in the absence of stay relief. In this regard, the DOE found that although Sun broadly alleged that it would experience irreparable injury if its stay request were denied, the firm had failed to submit material documenting either the nature or magnitude of this alleged impact. The Doe further found that amendments to the DOE Regulations which had recently been promulgated appeared to permit Sun to recover all of the costs that the firm claimed it would incur in implementing the two Orders. Furthermore, the DOE pointed out

that, despite Sun's argument to the contrary, the DOE did have means of making certain that Sun would recover the crude oil that it had been directed to sell, in the event that the firm ultimately prevailed on the merits of its appeals. The DOE further determined that Sun had failed to demonstrate that it was likely to prevail on the merits of those appeals. In this connection, the DOE noted that Sun had not made a sufficiently strong showing that the ERA lacked the authority to review Rock Island's and Gladieux's eligibility to participate in the Buy-Sell Program, or the authority to use the Buy-Sell Program to rectify domestic supply imbalances caused by worldwide crude oil shortages. Finally, the DOE found that the adverse impact which Gladieux and Rock Island would incur if the Sun stay request were granted would greatly exceed the burdens which compliance with the two Orders would impose upon Sun. The DOE therefore concluded that Sun had not demonstrated that stay relief was warranted. Accordingly, the firm's Application for Stay was denied.

**Requests for Temporary Stay**

*General Motors Corp., Detroit, Mich., DST-2569, motor gasoline*

General Motors Corporation filed an Application for Temporary stay in which the firm requested that it be permitted to purchase and use for testing purposes its current requirements of "certification quality" unleaded gasoline from Chevron U.S.A., Inc., pending a determination on the merits of an Application for Stay and Application for Exception that GM had filed. In its Application, GM stated that it required "certification quality" fuels for testing of automobiles that it manufactures. Those tests are needed for compliance with statutory and regulatory requirements regarding motor vehicles emission controls and fuel economy. In its decision, the DOE noted that GM's allocation under Part 211 of the DOE regulations was insufficient to permit GM to perform testing at one of its facilities and that unless that facility were allotted a greater amount of "certification quality" fuels, GM would be forced to shut it down. The DOE concluded that GM would incur an irreparable injury unless it received additional supplies during the pendency of its Applications. Accordingly, the GM ordered that Chevron allocate to GM for a 20 day period its current requirements of "certification quality" fuels at GM's Milford Proving Grounds, not to exceed 35,611 gallons over GM's allocation under Part 211.

*Shell Oil Co. Houston, Tex., DST-2894, motor gasoline*

The Shell Oil Company filed an Application for Temporary Stay which, if granted, would permit the firm to allocate motor gasoline to certain classes of branded Shell retail sales outlets on a basis other than that set forth in Standby Regulation Activation Order No. 1. After considering the evidence submitted by the parties of a hearing and in the written submissions, the DOE found that Shell had failed to demonstrate that the classes of branded Shell outlets that it had formulated would experience irreparable injury unless temporary stay relief were granted. However, the DOE also found that an irreparable injury would occur with respect to three other classes of Shell retail outlets. Accordingly, the Shell temporary stay request was granted in part.

**Motions for Evidentiary Hearing and/or Discovery**

*Armstrong Petroleum Corp., Los Angeles, Calif., DRH-0150, DRD-0150, crude oil*

Armstrong Petroleum Corporation (Armstrong) filed Motions for Evidentiary Hearing and Discovery in connection with its Statement of Objections to a Proposed Remedial Order that the DOE Western Enforcement District issued to it on November 16, 1978. In considering the Armstrong Motions, the DOE noted that despite requests by the DOE for Armstrong to correct the deficiencies in its Motions, the firm has not done so. Therefore there was no basis in the record upon which the Motions could be granted. Accordingly, the Motions for Evidentiary Hearing and Discovery were denied.

*Corpus Christi Management Co.; J. W. McKellip; Office of Enforcement of the Economic Regulatory Administration of the DOE, Corpus Christi, Tex., Washington, D.C., DRD-0123, DRH-0123, DRD-0012, crude oil*

Corpus Christi Management Company (CCMC) and J. W. McKellip (McKellip) filed a Motion for Discovery and a Motion for Evidentiary Hearing in connection with a Remedial Order proceeding involving a Proposed Remedial Order (PRO) which DOE Region VI issued to CCMC and McKellip. The DOE Office of Enforcement subsequently filed its own Motion for Discovery in connection with the proceeding. The CCMC and McKellip Motion for Discovery, if granted, would have required the Office of Enforcement to produce copies of federal court decisions and citations to federal cases that address issues similar to those involved in the Remedial Order proceeding. The CCMC and McKellip Motion for Evidentiary Hearing, if granted, would have allowed the movants to question DOE officials regarding the reasons for the DOE's decision to issue the PRO to McKellip personally, as well as CCMC. In connection with this aspect of their Motion for Evidentiary Hearing, the movants asserted that the decision to issue the PRO to McKellip was made in bad faith and was an abuse of prosecutorial discretion. The Motion for Evidentiary Hearing also would have allowed CCMC and McKellip to question agency officials regarding advice which they allegedly gave to CCMC and McKellip, and which the movants assert condoned the actions leading to the issuance of the PRO. The Office of Enforcement Motion for Discovery requested that CCMC and McKellip be required to produce certain documents pertaining to McKellip's working interest in the crude oil properties covered by the PRO, and to his alleged role as the *de facto* operator of those properties. The Office of Hearings and Appeals (OHA) determined that the CCMC and McKellip Motion for Discovery did not seek material relevant to any factual issue in dispute in the Remedial Order proceeding, and accordingly denied the Motion. The OHA next determined that the Office of Enforcement Motion for Discovery sought information necessary to resolve a factual dispute as to whether McKellip was a "producer" of crude oil to whom a Remedial Order could properly be issued. That Motion for Discovery was therefore granted. However, the OHA noted in conjunction with this determination that enforcement offices of the DOE should generally be required to have obtained the evidence necessary fully to support the allegations in a PRO prior to its issuance. In furtherance of this policy, the OHA stated that in its future consideration of Motions for Discovery filed by DOE enforcement offices, it may require a showing of good cause as to why the evidence sought in the Motion was not obtained prior to issuance of the PRO. The OHA further found that the material obtained through the Office of Enforcement Discovery Motion would likely resolve the factual disputes underlying the issue of McKellip's personal liability. However, since full consideration of the need for further fact-finding regarding this matter would be more appropriate after completion of discovery, the CCMC and McKellip Motion for Evidentiary Hearing, to the extent it addressed factual issues pertaining to McKellip's liability, was dismissed without prejudice to a later refiling. In analyzing the Motion for Evidentiary Hearing, however, the OHA found that the request to question agency officials regarding oral advice was not relevant to the issues involved in the Remedial Order proceeding, and therefore denied that request.

*Howell Drilling, Inc., Jackson, Tex., DRH-0075, DRD-0075, crude oil*

Howell Drilling, Inc. filed a Motion for Evidentiary Hearing which, if granted, would result in the issuance of an Order directing that an evidentiary hearing be held in connection with the firm's Statement of Objections to a Proposed Remedial Order. Howell also filed a Motion for Discovery which, if granted, would grant the firm access to documents which allegedly served as the basis for certain determinations made in the PRO. In considering Howell's discovery request, the DOE concluded that Howell's request for internal guidelines and memoranda relating to the agency's position on which is "a posted price" would not be useful in resolving whether certain price bulletins submitted by Howell constituted "posted prices" applicable to the Gabrysch field within the meaning of 10 CFR 212.31. The DOE noted in this regard that the posted price issue presented by this case could be resolved by reference to DOE regulations, rulings, and published case law, along with the price bulletins themselves. Consequently, the DOE determined that the discovery requested was not necessary in order to obtain relevant and material evidence. In considering the evidentiary hearing request, the DOE determined that since DOE regulations, rulings, and precedent clearly indicated that the price bulletins submitted by Howell did not apply to the Gabrysch field on May 15, 1973, no useful purpose could be served by receiving oral testimony designed to show that consideration of industry

practice would lead to a contrary result. Accordingly, the DOE concluded that both of Howell's Motions should be denied.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Stay and/or Temporary Stay from the provisions of Standby Regulation Activation Order No. 1. The stay request, if granted, would result in an increase in the firm's base period allocation of motor gasoline pending determination of the firm's Application for Exception. The DOE issued Decisions and Orders which determined that the stay requests be granted:

*Name, Case No. and Location*

Kimberly Gas Mart, DES–2291, Kimberly, ID
Bruckner Service, Station, DES–2485, Bronx, NY
Mr. K. Exxon, DES–2470, DST–2470, Newbury, SC
John E. Jones Oil Co., DES–2766, Stockton, KS
Hardee World, Inc., DES–2336, DST–2336, Rocky Mt., NC
Briland Oil Co., DES–2333, DST–2333, Vidalia, GA
Ray Robinson Oil Co., DST–2630, Okmalgee, OK
Jayhawk Oil Company, DST–2455, Lawrence, KS
Ferguson Service, DES–2511, DST–2511, Ferguson, MO
Amoco Oil Company, DST–2257, Chicago, IL
Hardell Corporation, DES–2579, Hagerstown, MD
Hutton's Grove City 66 Station, DES–2343, DST–2343, Grove City, FL
Steve's Exxon Servicenter, DES–2473, College Park, MD
Town & Country Food Markets, Inc., DST–2863, Wichita, KS

The following firms filed Applications for Exception and/or Applications for Stay from the provisions of Standby Regulation Activation Order No. 1. After reviewing the material presented by these firms, the DOE concluded that each of these petitions should be dismissed without prejudice to a refiling at a later date:

*Name, Case No. and Location*

Travelers Pet., Inc. DEE–2446, DES–2446, Anderson, SC
J. W. Dewitt, Inc., DEE–2253, DES–2253, South El Monte, CA
Vish's Chevron, DES–2813, DST–2813, Lexington, KY
Jones Oil Company, DES–2493, Memphis, TN
Larry Stadler, DES–2746, DST–2746, Reidsville, NC
Pine Ridge Standard, DES–2498, Merrill, WI
Robert F. Saak, DES–2655, Jennings, MO
Uco Oil Company, DST–2487, Whittier, CA
Chevron Oil Service, Northport, AL, DES–2555, Northport, AL
Cole & Myers, Inc., DES–2313, Bethany, MO
Briarvista Chevron, DES–2328, DST–2328, Atlanta, GA
Fisca Oil Co., Inc., DES–2505, Kansas City, KS
Howard Moor, DES–2604, Wentzville, MO
Joshua Widman, DES–2562, DST–2562, Brooklyn, NY
Mountain Oil, Inc., DES–2817, DST–2817, Boone, NC
Roland Boudreaux, DES–2516, DST–2516, Rayne, LA
Scott Boulevard Chevron, DES–2814, Decatur, GA
Summit Car Care Center, DES–2461, Lee's Summit, MO

*Dismissals*

The following submissions were dismissed without prejudice to refiling at a later date:

Huntly Jiffy Stores; DES–2286, DST–2286, DEE–2286; Orange Park, FL;
Griffith Oil Co., Inc.; DEE–2410; Manhattan, KS;
H. White Oil Co.; DEE–2560, DST–2560; Poplar Bluff, MO;
Deshazo Oil Co.; DRA–0069; Martinsville, WV;
Petro Lock, Inc.; DEE–2500; Lancaster, CA;
Friendly Oil Co.; DEE–2474, DES–2474, DST–2474; Alhambra, CA;
American 66 Oil Co.; DEE–2640; Howard City, NM;
Petroleum Combustion International, Inc.; DEE–2148; Bohemia, NY;
McCormack Distributing; DEE–2484, DES–2484;
Bi-Lo Oil Co., Inc.; DEE–2341, DST–2341; Orlando, FL;
Patriot Petroleum, Inc.; DEE–2523; Columbia, SC;
L. E. Caffey; DEE–2375, DST–2375; Mangum, OK;
Warren Oil Co.; DEE–2837, DST–2837; Wankesha, WI.

*Name, Case Number and Location*

Welton Oil Service; DEE–2586; Mattoon, IL;
Parramore Oil Company; DEE–2306, DST–2306; Quincy, FL;
Mike's Save-On Handi Stop; DEE–2293, DST–2293; Sarasota, FL;
Buter Oil Company; DEE–2407, DST–2407; Grant, MI.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

September 10, 1979.

Melvin Goldstein,

*Director, Office of Hearings and Appeals.*

[FR Doc. 79–29072 Filed 9–18–79; 8:45 am]

BILLING CODE 6450–01–M

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 1324–5]

## Availability of Revised Procedure for Projecting Automotive Lead Emissions

**AGENCY:** Office of Air Quality Planning and Standards, Environmental Protection Agency.

**PURPOSE:** This notice advises the public of the availability of a revised procedure for estimating lead emissions from automotive sources. This revised procedure replaces the original procedure in "Supplementary Guidelines for Lead Implementation Plans," EPA–450/2–78–038, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, August 1978, pp. 43–59.

**DOCUMENT AVAILABILITY:** Copies of the revised procedure may be obtained by writing to the EPA Library Services (MD–35), Research Triangle Park, N.C. 27711, or by calling (919) 541–2777, (FTS–629–2777). One shoud request, "Supplementary Guidelines for Lead Implementation Plans: Revised Section 4.3—Projecting Automotive Lead Emissions," July, 1979, OAQPS No. 1.2–104a.

**FOR FURTHER INFORMATION CONTACT:** Dan J. deRoeck, Control Programs Development Division (MD–15), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, N.C. 27711 (919) 541–5437, (FTS–629–5437).

**SUMMARY:** On October 5, 1978, EPA promulgated new national ambient air quality standards for lead and regulations for the preparation of lead implementation plans (40 CFR 51, Subpart E—Control Strategy: Lead). One of the requirements which must be satisfied as part of an approved implementation plan calls for the projection of lead emissions from both stationary and mobile sources for at least three years beyond the date by which the Administrator must approve the plan.

EPA originally provided specific guidance for projecting automotive lead emissions in the "Supplementary Guidelines for Lead Implementation Plans." However, the original procedure was recently replaced by a new procedure which revises the basic projection equation, clarifies the method for estimating area emissions from automotive sources, and provides updated tables of information necessary to complete the various calculation.

Copies of the revised package have already been distributed to air pollution control agencies. This notice advised the public of the general availability of the revised projection procedure.

Dated: September 13, 1979.

David G. Hawkins,

*Assistant Administrator for Air, Noise, and Radiation.*

[FR Doc. 79-29096 Filed 9-18-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1324-1; OPP-180326A]

## Delaware, Maryland, and Virginia; Amendment to Specific Exemptions To Use Blazer on Soybeans To Control Morning-glory Species

**AGENCY:** Environmental Protection Agency (EPA), Office of Pesticide Programs.

**ACTION:** Issuance of amendments to specific exemptions.

**SUMMARY:** EPA has issued amendments to specific exemptions granted to the Delaware and Maryland Departments of Agriculture and the Virginia Department of Agriculture and Consumer Services (hereafter referred to as the "Applicants") to use Blazer to control morning-glory species in soybeans. The amendments allow the use of Blazer on soybeans planted after June 11, 1979 and extend the expiration date of the specific exemptions to August 31, 1979.

**FOR FURTHER INFORMATION CONTACT:** Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

**SUPPLEMENTARY INFORMATION:** On Monday, July 30, 1979 (44 FR 44612), EPA published a notice in the Federal Register which announced the granting of specific exemptions to the Applicants to use Blazer 2S and 2L to control morning-glory species on 50,000 acres of soybeans in each State. Since the emergency condition was based on record rainfalls which leached previously applied herbicides from the soil and the lack of a registered pesticide which could be used at the present stage of soybean growth, a restriction was placed on the specific exemption to allow the use of Blazer only on soybean fields which were planted before June 11, 1979. This limitation was based on the fact that if a farmer could get into fields to plant soybeans after this date, he could also cultivate his fields, and therefore, did not need Blazer.

Since then, the Applicants have pointed out that continued wet weather makes cultivation of soybeans impossible. Since the June 11 cutoff date, the Applicants state, an additional six to ten inches of rain have fallen on the Delmarva peninsula. Due to narrow row plantings and continued wet weather, cultivation is impossible, according to the Applicants. They also state that registered pesticides are not effective under their agricultural conditions.

After reviewing the applications and other available information, EPA has determined that the requested amendments would not present an undue hazard to man or the environment. No additional quantity of pesticide was requested. Accordingly, EPA has amended the specific exemptions by deleting the June 11, 1979 cutoff date, and authorizing use of Blazer on soybean fields when a major infestation of morning-glory exists, as determined by State Agricultural personnel, which will cause significant economic losses; and to extend the expiraton date to August 31, 1979. All other terms and conditions of the specific exemptions granted on June 11, 1979, still apply.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: September 12, 1979.

Edwin L. Johnson,

*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc. 79-29094 Filed 9-18-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1323-7; OPP-180353]

## Louisiana; Issuance of Specific Exemption To Use Basagran/Vistar 2S on Soybeans To Control Hemp Sesbania and Red Rice

**AGENCY:** Environmental Protection Agency (EPA), Office of Pesticide Programs.

**ACTION:** Issuance of specific exemption.

**SUMMARY:** EPA has granted a specific exemption to the State of Louisiana (hereafter referred to as the "Applicant") to use a tank mixture of Basagran and Vistar 2S on 20,000 acres of soybeans to control hemp sesbania and red rice. The specific exemption expires on September 1, 1979.

**FOR FURTHER INFORMATION CONTACT:** Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

**SUPPLEMENTARY INFORMATION:** According to the Applicant, approximately 160,000 acres of soybeans will need to be treated for hemp sesbania this year. Approximately 50 percent of this acreage is also infested with red rice. The Applicant was also granted a specific exemption for the use of Blazer 2S on the remaining 80,000 acres of soybeans infested with hemp sesbania but not red rice. On July 24, 1979, the Applicant was granted an amendment to the Blazer 2S specific exemption permitting the application of Blazer to an additional 60,000 acres of soybeans. That amendment was based on the fact that the Basagran/Vistar 2S exemption was not granted in time to treat this acreage. Because of the Blazer amendment, the Basagran/Vistar request now pertains only to the remaining 20,000 acreas of soybeans which were planted much later than usual and therefore can still benefit from the Basagran/vistar 2S treatment.

Hemp sesbania infests approximately 750,000 acres of soybeans in Louisiana to an economically significant level. Because sesbania seeds remain dormant in the soil for several years, there is every reason to assume that those fields where hemp sesbania has been a problem in the past will be infested again in 1979.

Red rice infests approximately 400,000 acres of soybeans, in southwest Louisiana, which are grown in a rotation system with rice. Many cultural practices currently used in rice, including water seeding by airplane, shifting to earlier varieties, and a two-year fallow period between rice crops, have resulted from attempts to control red rice. Since soybeans have become a major crop in the rice growing area of Louisiana, many farmers have shifted to soybeans as a rotation crop instead of a fallow program. Because one objective of the soybean rotation is to reduce the red rice seed population in the soil, the Applicant claims it is necessary to obtain 100 percent control in the soybeans. Because the viable seeds are known to be present in the soil, there is no doubt that this pest will also be present again this year.

Hemp sesbania is an erect annual weed that grows six to eight feet tall in Louisiana. It normally emerges with the

soybeans or shortly after and grows under the soybean canopy until late July or early August when it emerges through the soybeans to form a canopy which shades the soybeans and reduces yield. It grows rapidly in the latter part of the season, competing with the soybeans for soil nutrients during the critical pod-filling period and producing a formidable obstacle for harvesting.

Red rice is essentially a wild variety of rice which competes directly with domestic rice. Some soybean fields become so severely infested that soybean yields are reduced through direct competition from red rice that escapes a normal herbicide treatment; however, this is an abnormal situation. Because the objective is to stop seed production and therefore reduce the infestation in the subsequent rice crop, it is necessary to achieve a much higher level of control than would be necessary for soybean production, according to the Applicant.

Several herbicides are registered for use on soybeans for hemp sesbania control, including Amiben, Lorox, Sencor/Lexone, and dinoseb. According to the Applicant, these pesticides are unsuitable in many situations. There are no herbicides or other measures available to control red rice effectively in domestic rice production. A return to a fallow program might be considered an alternative to using soybeans as a rotation crop; however, most farmers cannot afford to let two thirds of their investment in land lie idle, producing no income, according to the Applicant.

There are several herbicides registered for use in soybeans that can give effective red rice control, including Lasso, Dual, Treflan, Basalin, and paraquat. Lasso has been the standard treatment for several years, normally giving 80 to 100 percent control of red rice; however, occasionally it will fail badly, the Applicant reports. Research conducted by the Louisiana Agricultural Experiment Station indicates that Dual will perform essentially the same as Lasso, and that Treflan and Basalin are normally slightly less effective than Lasso. Paraquat is available as a post directed application. It cannot be used in soybeans less than ten inches tall, and its effectiveness depends on having a height differential between the red rice and soybeans. Much of the red rice problem is in the areas where soybeans are grown predominantly in a solid-seeded culture. The Applicant states that this eliminates the possibility of post directing paraquat. Research conducted in Louisiana indicates that the mixture of Basagran (bentazon) and Vistar (mefluidide) has a synergistic interaction when applied to red rice and large hemp sesbania, resulting in effective control of both these pests with no soybean injury. Neither of these pests is effectively controlled by either herbicide used alone.

The Applicant proposed that State-certified commercial or private applicators apply the tank mix. The tank mix would not be used when another registered herbicide is available and conditions will permit its application. The Applicant claims that Louisiana soybean growers could lose $1,300,000 if the tank mix is not made available.

Basagran is registered for use on soybeans (EPA Reg. No. 7969-45) and a permanent tolerance of 0.05 part per million (ppm) of bentazon in or on soybeans has been established. Mefluidide (Vistar) has a temporary tolerance of 0.01 ppm in or on soybeans in effect. Data indicate that residues of mefluidide from the proposed use should not exceed 0.01 ppm in or on soybeans. These residue levels have been judged adequate to protect the public health. EPA has determined that use of the tank mix should not have an unreasonable adverse effect on the environment.

After reviewing the application and other available information, EPA has determined that (a) pest outbreaks of hemp sesbania and red rice have occurred or are likely to occur; (b) there is no effective pesticide presently registered and available for use to control hemp sesbania and red rice in Louisiana; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pests are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 1, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The products authorized are Basagran (EPA Reg. No. 7969-45), manufactured by BASF Wyandotte Corp., and Vistar 2S, an unregistered product manufactured by 3M Co.;

2. These products will be applied as a tank mixture at a rate of 1.5 pints Basagran (0.75 pound active ingredient per acre) plus 0.5 pint Vistar 2S (0.125 pound active ingredient per acre);

3. Application should be made before red rice is taller than four inches;

4. The mixture is to be applied by ground equipment in a minimum of 20 gallons of water per acre and a minimum pressure of 50 psi. If crop and weed foliage is dense, 50 gallons of water and 80 psi pressure should be used. When use of ground equipment is not feasible, air application may be made using a minimum of 10 gallons of water per acre;

5. The surfactant Citowett should be used at a rate of 2 pints per 100 gallons of water for all applications;

6. No more than 3,750 gallons of Basagran and 1,250 gallons of Vistar 2S may be applied;

7. The Basagran + Vistar tank mix should not be used when another registered pesticide is available and conditions will permit its application;

8. All precautions and restrictions on the tank mix label + Vistar label, submitted with the request, must be adhered to. All applicable precautions and restrictions on the EPA-registered label for Basagran must be adhered to;

9. All applications will be made by commercial or private applicators certified by the Louisiana Department of Agriculture;

10. A six-month crop rotation restriction is imposed;

11. A pre-harvest interval of 60 days is imposed;

12. Soybeans treated according to the above provisions should not have residues of bentazon and mefluidide in excess of 0.05 ppm and 0.01 ppm, respectively. Soybeans with residues which do not exceed these levels may enter into interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been notified of this action; and

13. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by December 31, 1979.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: September 12, 1979.

Edwin L. Johnson,

*Deputy Assistant Administrator for Pesticide Programs.*

FR Doc. 79-29092 Filed 9-18-79; 8:45 am]
BILLING CODE 6560-01-M

---

[FRL 1323-6; OPP-180317A]

## Louisiana Department of Agriculture; Amendment To Specific Exemption To Use Blazer on Soybeans To Control Hemp Sesbania

**AGENCY:** Environmental Protection Agency (EPA), Office of Pesticide Programs.

**ACTION:** Issuance of amendment to a specific exemption.

**SUMMARY:** EPA has issued an amendment to a specific exemption granted to the Louisiana Department of Agriculture (hereafter referred to as the "Applicant") to use Blazer 2S on soybeans to control hemp sesbania. The amendment permits the application of an additional 30,000 pounds of the active ingredient in Blazer 2S to an additional 60,000 acres.

**FOR FURTHER INFORMATION CONTACT:** Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street S.W., Room: E-124, Washington, D.C. 20460. Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

**SUPPLEMENTARY INFORMATION:** On Tuesday, July 3, 1979 (44 FR 39019), EPA published a notice in the Federal Register which announced the granting of a specific exemption to the Applicant to use Blazer 2S (sodium 5-[2-chloro-4-[trifluoro-methyl]-phenoxy]-2-nitrobenzoate) to control hemp sesbania on 80,000 acres of soybeans. The Applicant had also requested another specific exemption for the use of a Basagran/Vistar tank mix to treat an additional 80,000 acres of soybeans for control of hemp sesbania and another weed, red rice.

Since the Basagran/Vistar exemption has not yet been granted, and since the time for treatment to control red rice has passed in most areas of Louisiana, the Applicant has requested that the specific exemption for Blazer 2S be amended by authorizing use on an additional 60,000 acres of soybeans for control of hemp sesbania.

After reviewing the application and other available information, EPA has determined that the requested amendment would not result in significant environmental risks. Accordingly, EPA has granted the amendment to authorize the use of Blazer 2S on a total of 140,000 acres. The amount of Blazer 2S to be used has been increased to a total of 70,000 pounds. All other terms and conditions of the specific exemption granted on May 11, 1979, still apply.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: September 12, 1979.

Edwin L. Johnson,

*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc. 79-29091 Filed 9-18-79; 8:45 am]

BILLING CODE 6560-01-M

---

[FRL 1324-2; OTS-53005]

## Toxic Substances; Premanufacture Notices Status Report for August 1979

**AGENCY:** Environmental Protection Agency (EPA or the Agency).

**ACTION:** Monthly Summary of Premanufacture Notices.

**SUMMARY:** Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to publish a list in the Federal Register at the beginning of each month reporting the premanufacture notices (PMN's) pending before the Agency and the PMN's for which the review period has expired since publication of the last monthly summary. This is the report for August 1979.

**DATE:** Any person who wishes to file written comments on a specific chemical substance should submit those comments no later than 30 days before the expiration of the applicable notice review period.

**ADDRESS:** Written comments should bear the PMN number of the particular substance and should be addressed to the Document Control Officer (TS-793), Office of Toxic Substances, EPA, 401 M St., SW., Washington, DC 20460.

Nonconfidential portions of the PMN's and other documents in the public record are available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Room E-447 at the address above.

**FOR FURTHER INFORMATION CONTACT:** Paige Beville, Premanufacturing Review Division (TS-794), Office of Toxic Substances, EPA, Washington, DC 20460, 202/426-8816.

**SUPPLEMENTARY INFORMATION:** Under section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA at least 90 days before he begins manufacture or import. A "new" chemical substance is any chemical substance that is not on the inventory of existing chemical substances compiled by EPA under section 8(b) of TSCA. EPA first published the inventory on June 1, 1979 (44 FR 28558, May 15, 1979). The section 5 requirements are effective for all new chemical substances manufactured or imported for a commercial purpose after July 1, 1979. Once EPA receives a PMN, the Agency normally has 90 days to review it. However, under section 5(c) of TSCA, the Agency may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that such an extension is necessary, the Agency publishes the reasons for the extension in the Federal Register.

The monthly status report required under section 5(d)(3) will identify: (a) PMN's received during the month; (b) PMN's received previously and still under review at the beginning of the month; (c) PMN's for which the notice review period has ended since the last monthly summary; and (d) chemical substances that EPA has added to the inventory since the last monthly summary.

(Section 5 of the Toxic Substances Control Act (90 Stat. 2012; 15 U.S.C. 2604).)

Dated: September 11, 1979.

Steven D. Jellinek,

*Assistant Administrator for Toxic Substances.*

**Premanufacture Notices; Status Report for August 1979**

I. Premanufacture Notices Received During the Month: None.

II. Premanufacture Notices Received Previously and Still Under Review at the Beginning of the Month:

| PMN No. | Identity/generic name | FR citation | Expiration date |
|---|---|---|---|
| 5AH00479-0002-1 | Isobutyric acid carbomonocyclic ester | 44 FR 23310 (4/19/79) | Sept. 2, 1979.[1] |
| 5AH00479-0002-2 | Propiophenone, ring substitute-2-methyl | do | Do. |
| 5AH00479-0002-3 | Butyronitrile, 2-(substituted phenyl)-3-methyl | do | Do. |
| 5AH00479-0002-4 | Benzyl alcohol, ring substituted-alpha-isopropyl. | do | Do. |
| 5AHQ-0779-0004 | Amine salt of dicarboxylic acids | 44 FR 44931 (7/31/79) | Oct. 17, 1979. |

[1] Per section 5(c), TSCA extension of 60 days. No PMN Review Period Expired in Aug. 1979.

III. Premanufacture Notices for which the Notice Review Period Has Ended Since the Last Monthly Summary: None.

IV. Chemical Substances that EPA has Added to the Inventory Since the Last Monthly Summary: None.

[FR Doc. 79-29095 Filed 9-18-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1323-4; OPP-30165A]

## Pesticide Programs; Approval of Application to Register Pesticide Product Containing New Active Ingredient

On June 22, 1979, notice was given (44 FR 36468) that Herculite Products, Inc., 1107 Broadway, NY 10010, had filed an application (EPA File Symbol 8730-17) with the Environmental Protection Agency (EPA) to register the pesticide product HERCON LURETAPE WITH DISPARLURE containing 13% of the active ingredient *cis*-7,8-epoxy-2-methyloctadecane which was not previously registered at the time of submission. Notice of this registration is given in accordance with 40 CFR 162.7(d)(2).

This application was approved August 20, 1979 and the product has been assigned EPA Registration No. 8730-17. Hercon Luretape with Disparlure is classified for general use as a pest management tool to lower incidence of gypsy moth mating in low level populations. A copy of the approved label and the list of data references used to support registration are available for public inspection in the Product Manager's (PM-17) office, Room E-341, Registration Division (TS-767), Office of Pesticide Programs, 401 M St., SW, Washington, DC 20460, telephone number 202/426-9417. The data and other scientific information used to support registration, except for the material specifically protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C 136) will be available for public inspection in accordance with section 3(c)(2) of FIFRA, within 30 days after the registration date of August 20, 1979. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, at the above address. Such requests should: 1) identify the product by name and registration number and 2) specify the data or information desired.

Dated: September 12, 1979.

Edwin L. Johnson,

*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc. 79-29084 Filed 9-18-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1323-5; OPP-30151A]

## Pesticide Programs; Approval of Application to Register Pesticide Product Containing New Active Ingredient

On August 18, 1978, notice was given (43 FR 36684) that Herculite Products, Inc., 1107 Broadway, NY 10010, had filed an application (EPA File Symbol 8730-RL) with the Environmental Protection Agency (EPA) to register the pesticide product Hercon Luretape with Grandlure containing the active ingredients (1R-cis)-1-methyl-2-(1-methylethenyl) cyclobutane ethanol 1.0% (Z)-2-((3,3-dimethylcyclohexylidene) ethanol 1.3%; (E)-(3,3-dimethylcyclohexylidene) acetaldehyde 0.5%; and (Z)-(3,3-dimethylcyclohexylidene) acetaldehyde 0.5% which have not been included in any previously registered pesticide products. Notice of this registration is given in accordance with 40 CFR 162.7(d)(2).

This application was approved August 20, 1979 and the product has been assigned EPA Registration No. 8730-15. Hercon Luretape with Grandlure is classified for general use in Integrated Pest Management (IPM) program in cotton. A copy of the approved label and list of data references used to support registration are available for public inspection in the Product Manager's (PM-17) office, Room E-341, Registration Division (TS-767), Office of Pesticide Programs, 401 M St., SW, Washington, DC 20460, telephone number 202/426-9417. The data and other scientific information used to support registration, except for the material specifically protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) will be available for public inspection in accordance with section 3(c)(2) of FIFRA, within 30 days after the registration date of August 20, 1979. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, at the above address. Such requests should: 1) identify the product by name and registration number and 2) specify the data or information desired.

Dated: September 12, 1979.

Edwin L. Johnson,

*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc. 79-29000 Filed 9-18-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1323-8; OPP-180351]

## Washington State Department of Agriculture; Issuance of Specific Exemption To Use TEPP To Control Spider Mites on Hops

**AGENCY:** Environmental Protection Agency (EPA), Office of Pesticide Programs.

**ACTION:** Issuance of specific exemption.

**SUMMARY:** EPA has granted a specific exemption to the Washington State Department of Agriculture (hereafter referred to as the "Applicant") to use tetraethylpyrophosphate (TEPP) to control the two-spotted spider mite on 8,000 acres of hops in two counties in Washington. The specific exemption expires on September 30, 1979.

**FOR FURTHER INFORMATION CONTACT:** Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

**SUPPLEMENTARY INFORMATION:** According to the Applicant, the reason for the request for the use of TEPP is the shortage of another miticide, Carzol, for which a specific exemption was granted on June 11, 1979 (44 FR 43333, July 24, 1979). That exemption allowed the use of 80,960 pounds of the active ingredient formetanate hydrochloride (Carzol). The Applicant reports that the manufacturer is able to supply only 10,650 pounds. Therefore, the Applicant requested that the use of up to 4,000 gallons of TEPP be approved to make up for the shortage of Carzol. The 4,000 gallons will treat 8,000 acres; the available amount of Carzol will treat 3,780 acres. The TEPP used will be the remaining supply from a specific exemption granted the Applicant last year. As a result of the shortage of miticides this year, only a little more than half of the 22,000 acres of hops grown in Washington will be treated. Potential losses from a major outbreak of mites could reach $20,000,000, the Applicant reported.

The Applicant proposed to treat hops in Yakima and Benton Counties at a rate of 2 pounds active ingredient per acre.

State-licensed commercial applicators will make one aerial application.

According to the Applicant, registered pesticides cannot be used because: they are not effective or not available; mites have developed resistance to them; pre-harvest intervals are too long for them to be practical; and while hops require aerial application, the registered pesticides cannot be applied aerially because of either labeling restrictions or ineffectiveness.

EPA expects a residue level of tetraethylpyrophosphate in dried hops of 0.01 part per million (ppm) from this use. However, the anlytical technique for hops is not adequate to support this low level. A residue level not to exceed 0.1 ppm could be analyzed and would be adequate to protect the public health. A residue tolerance level of 0.01 ppm has been accepted for apples, cabbages, cauliflowers, oranges, peaches, and potatoes. These commodities are generally more prevalent in the human diet than hops which are consumed only through beer.

While an endangered species, the American Peregrine Falcon, does occur within the counties where TEPP will be applied, and the bald eagle has also been reported there, they are not likely to be present in hop fields. This use, therefore, is not expected to have an adverse effect on any endangered species.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of two-spotted spider mites has occurred or is likely to occur; (b) there is no effective pesticide presently registered and available for use to control the two-spotted spider mite in Washington; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the two-spotted spider mites are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 30, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. One aerial application of TEPP may be made, at the rate of two pounds active ingredient per acre;

2. The remaining 4,000-gallon supply of TEPP (16,000 pounds active ingredient) is authorized under this exemption. This may be used to treat up to 8,000 acres;

3. Applications are limited to the counties named above and are to be made only by State-licensed certified applicators;

4. A three-day pre-harvest interval will be observed;

5. The Applicant is responsible for monitoring aerial applications of TEPP;

6. Liaison shall be established among the Washington State Departments of Agriculture, Fisheries, and Game to minimize any adverse effets on fish and wildlife resources;

7. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption;

8. All applicable directions, restrictions, and precautions on the EPA-registered label will be observed;

9. All precautions will be taken to avoid or minimize spray drift to non-target areas; and

10. Hops with residues of tetraethylpyrophosphate not excceding 0.1 ppm may be offered in interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).).

Dated: September 12, 1979.

Edwin L. Johnson,

*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc. 79-29093 Filed 9-18-79; 8:45 am]

BILLING CODE 6560-01-M

## FEDERAL COMMUNICATIONS COMMISSION

### Mexican Standard Broadcast Station; Notification List; List of New Stations, Proposed Changes in Existing Stations, Deletions and Corrections in Assignments of Mexican Standard Broadcast Stations Modifying the Assignments of Mexican Broadcast Stations Contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941

*Correction*

In FR Doc. 79-28847 appearing at page 53309 in the issue for Thursday, September 13, 1979; on page 53310, the eighth entry from the bottom of the table, under the column marked "Antenna radiation mv/m/kw", "ND-D-190" should read "ND-U-190".

BILLING CODE 1505-01-M

## FEDERAL MARITIME COMMISSION

[Docket No. 79-88]

### Pacific Coast Ocean Freight Forwarders Conference Agreement No. 8330, as Amended, and Agreement No. 8330-2; Order of Investigation and Hearing

Agreement No. 8330-2 has been filed with the Commission for approval pursuant to section 15, Shipping Act, 1916. It provides for a modification of Agreements Nos. 8330 and 8330-1 which approved by the Commission on December 10, 1956 and June 19, 1958 respectively. Although Agreements Nos. 8330 and 8330-1 authorized the formation of a conference of freight forwarders, the Pacific Coast Ocean Freight Forwarders Conference, the conference never actually functioned in the manner contemplated by the agreements. Recently, however, the membership has decided to activate the conference. While no additional section 15 authority may be required to take this step, the members realize that some of the provisions of Agreements Nos. 8330 and 8330-1 may be archaic in view of intervening legal and commercial developments.

To remedy this problem, Agreement No. 8330-2 was filed by the Chairman of the "Temporary Committee for Revitalization of the Pacific Coast Ocean Freight Forwarders Conference" and is signed by thirteen licensed ocean freight forwarders. The provisions of Agreement No. 8330-2 are primarily designed to update Agreements Nos. 8330 and 8330-1 to fit modern activities of freight forwarders; to delete any reference to previous and now revoked Commission General Order 72; to refer to certain activities involving intermodalism; to delete outdated arbitration provisions; to add a new article for enforcement of the agreement including enforcement of any rules and regulations approved by three-fourths of the members of the conference; to eliminate previous bonding provisions; and to add two new sections entitled "Requests and Complaints by Members" and "Requests and Complaints by Shippers".

Agreement No. 8330 presently authorizes its members to engage in collective ratemaking activity. Agreement No. 8330-2 deletes this authority but the parties would still be allowed to discuss matters of mutual interest among the members of the conference, with other conferences, and with carriers by rail, water, truck or air.

The Pacific Coast European Conference (PCEC) filed comments on Agreement No. 8330-2. PCEC does not

request disapproval or a hearing, but expresses concern over the "very broad wording" of Article 13 of the agreement which provides that the parties may meet with other conferences (i.e., a conference of water carriers such as PCEC) to discuss and agree upon any matters of mutual interest. Although Article 13 provides that such interconference agreements shall be filed with the Commission for approval, PCEC is concerned that such authority may permit situations in which the parties to Agreement No. 8330–2 may exert collective pressure on common carriers to increase the level of compensation payments.

Article 13 also authorizes meetings with all types of common carriers to carry out the purposes of the agreement. PCEC believes that this may allow the parties to route all their business to those carriers paying the highest compensation, creating an undesirable situation.

The proposed activation of the Pacific Coast Freight Forwarders Conference raises the basic issues of: (1) Whether the conference's present authority under Agreements Nos. 8330 and 8330–1 should be allowed to remain in effect, in light of current conditions, and (2) whether the modifications contained in Agreement No. 8330–2 should be approved, disapproved or modified pursuant to section 15. Specifically, the Commission shares the concerns voiced by PCEC concerning Article 13. It is unclear exactly what Article 13 authorizes and why. As these issues may affect not only the forwarders who would be members of the Conference and the particular carriers and shippers involved with those forwarders, but also other carriers and the shipping public at large, the Commission is of the opinion that the continued approval of Agreements Nos. 8330 and 8330–1 and the approval of Agreement No. 8330–2 should be made the subject of a formal investigation and hearing.

Now, therefore it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916 (46 U.S.C. 814 and 821) that a proceeding be instituted to determine:

1. Whether Agreements Nos. 8330, 8330–1, and 8330–2 are unjustly discriminatory or unfair as between carriers, shippers, exporters, importers or ports, or may operate to the detriment of the commerce of the United States, or are contrary to the public interest or otherwise in violation of the Shipping Act, 1916;

2. Whether Agreements Nos. 8330 and 8330–1 should be ordered modified or disapproved pursuant to the standards of section 15 of the Shipping Act,. 1916;

3. Whether Agreement No. 8330–2 should be approved, modified, or disapproved pursuant to the standards of section 15 of the Shipping Act, 1916;

It is further ordered, That, in the event there is any modification of this Agreement, such modification shall be filed with the Commission and shall be made subject to this investigation for approval, disapproval or modification, under the standards of section 15, Shipping Act, 1916;

It is further ordered, that the Pacific Coast Ocean Freight Forwarders Conference, and the members thereof as listed in Appendix A be named as Proponents herein;

It is further ordered, that, in accordance with Rule 42 of the Commission's rules of practice and procedure (46 CFR 502.42), the Director of the Commission's Bureau of Hearing Counsel is designated as a party to this proceeding;

It is further ordered, that a public hearing be held in this proceeding and that the matter be assigned for hearing and decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Presiding Administrative Law Judge, but no later than 180 days after service of this order;

The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, that notice of this Order be published in the Federal Register, and a copy be served upon all parties of record;

It is further ordered, that any person other than parties of record having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's rules of practice and procedure (46 CFR 502.72);

It is further ordered, that all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further ordered, that, except as provided in Rules 159 and 201(a) of the Commission's rules of practice and procedure (46 CFR 502.159, 46 CFR 502.201(a)), all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's rules of practice and procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

*Secretary.*

*Proponents*

The Pacific Coast Ocean Freight Forwarders Conference and members thereof:

Barry & McCarthy Shipping Co., Inc., 260 California Street, San Francisco, California 94111.

SeaPort Shipping Co. (Seattle), 2033 Sixth Avenue, Seattle, Washington 98121.

Mattoon & Co., Inc., 244 Jackson Street, San Francisco, California 94111.

James Loudon & Co., Inc., 110 West Ocean Blvd., Long Beach, California 90802.

Hoyt, Shepston, Inc., 30 Hotaaling Place, San Francisco, California 94111.

J. E. Lowden & Co., 465 California Street, San Francisco, California 94104.

Castelazo & Assoc., P.O. Box 90779, 5420 W. 104 Street, Los Angeles, California 90045.

Thornley & Pitt, Inc., 48 Gold Street, P.O. Box 2270, San Francisco, California 94126.

Arthur J. Fritz & Co., 244 Jackson Street, San Francisco, California 94111.

H. H. Elder & Co., 62 Townsend Street, San Francisco, California 94107.

SeaPort Shipping Co. (Portland), 4610 S.E. Belmont St., Portland, Oregon 97215.

J. T. Steeb. & Co., Inc., Room 200, Colman Bldg., Seattle, Washington 98104.

[FR Doc. 79-28963 Filed 9-18-79; 8:45 am]

BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM

### Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "Reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests

a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than October 11, 1979.

A. *Federal Reserve Bank of San Francisco,* 400 Sansome Street, San Francisco, California 94120:

WELLS FARGO & COMPANY, San Francisco, California (finance, leasing and real estate investment advising activities; Western United States): to engage, through its subsidiary, Wells Fargo Realty Advisors, in making or acquiring real estate related loans and other extensions of credit, for its own account or the account of others and servicing these loans and extensions of credit; acting as an investment advisor to Wells Fargo Mortgage and Equity Trust (a real estate investment trust), other affiliates of Wells Fargo & Company and other investors with respect to real estate investment portfolios; making leases of real property in accordance with the Board's Regulation Y; and providing bookkeeping or data processing services related to real estate investment of Wells Fargo and its affiliates. These activities would be conducted from an office in Portland, Oregon, serving primarily the State of Oregon, as well as Washington, California, Idaho, Nevada, Utah, Arizona, Montana, Wyoming and Colorado.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, September 10, 1979.

Griffith L. Garwood,

*Deputy Secretary of the Board.*

[FR Doc. 79-28993 Filed 9-18-79; 8:45 am]

BILLING CODE 6210-01-M

## Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than October 9, 1979.

A. *Federal Reserve Bank of Cleveland,* 1455 East Sixth Street, Cleveland, Ohio 44101:

PITTSBURGH NATIONAL CORPORATION, Pittsburgh, Pennsylvania (mortgage banking activities: Alabama and North Carolina): to engage, through a subsidiary, The Kissel Company, in making or acquiring and servicing for its own account or for the account of others, loans and other extensions of credit such as would be made by a mortgage company. These activities would be conducted at offices in Huntsville and Mobile, Alabama, and Asheville, North Carolina, serving Alabama and North Carolina.

B. *Federal Reserve Bank of San Francisco,* 400 Sansome Street, San Francisco, California 94120:

BANKAMERICA CORPORATION, San Francisco, California (financing and insurance activities; Illinois): to engage, through its subsidiary, FinanceAmerica Corporation, in the activity of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company and servicing loans and other extensions of credit, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, and making loans secured by real and personal property; and the offering of credit related life, credit related accident and disability insurance, and credit related property insurance in connection with extensions of credit made or acquired by FinanceAmerica Corporation. These activities will be conducted from a *de novo* office in Normal, Illinois, serving the State of Illinois.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, September 7, 1979.

Griffith L. Garwood,

*Deputy Secretary of the Board.*

[FR Doc. 79-28997 Filed 9-18-79; 8:45 am]

BILLING CODE 6210-01-M

## Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate

Federal Reserve Bank not later than October 9, 1979.

A. *Federal Reserve Bank of San Francisco,* 400 Sansome Street, San Francisco, California 94120:

ZIONS UTAH BANCORPORATION, Salt Lake City, Utah (mortgage banking, insurance activities; Utah): to engage through its subsidiary Zions Mortgage Company, in the origination and acquisition of mortgage loans, including development and construction loans on multi-family and commercial properties for its own account or for sale to others; the servicing of such loans for others and acting as agent or broker for sale of credit related life, accident, health, and property damage and liability insurance. These activities will be conducted at an office to be located in Clearfield, Utah serving the northern portion of Davis County and portions of contiguous Weber County.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, September 11, 1979.

Griffith L. Garwood,

*Deputy Secretary of the Board.*

[FR Doc. 79-29004 Filed 9-18-79; 8:45 am]

BILLING CODE 6210-01-M

## Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration or resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than October 11, 1979.

A. *Federal Reserve Bank of Boston,* 30 Pearl Street, Boston, Massachusetts 02106:

INDUSTRIAL NATIONAL CORPORATION, Providence, Rhode Island (mortgage banking activities; Wisconsin) to engage, through its indirect subsidiary Amortized Mortgages, Inc. in making, acquiring, and servicing loans and other extensions of credit secured by real estate mortgages. This activity will be conducted from an office in Green Bay, Wisconsin, serving Brown, Door, Florence, Forest, Kewaunee, Langlade, Lincloln, Marinette, Menominee, Oconto, Oneida, Shawano and Vilas counties, Wisconsin.

B. *Federal Reserve Bank of San Francisco,* 400 Sansome Street, San Francisco, California 94120:

ORBANCO, INC., Portland, Oregon (commercial finance, leasing, and insurance activities; Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin) to engage, through its subsidiary, Northwest Acceptence Corporation, in making or acquiring loans or other extensions of credit such as would be made or acquired by a commercial finance company; leasing personal property in accordance with the Board's Regulation Y; servicing loans or participation in loans and other extension of credit; and acting as broker or agent for the sale of life insurance related to its extensions of credit. The loans and other extensions of credit will be secured by machinery and equipment, inventory, accounts receivable, or other assets. These activities would be conducted from an office in Rosemont, Illinois, serving the twelve states listed in the caption.

C. *Other Reserve Banks:* None.

Board of Governors of the Federal Reserve System, September 11, 1979.

Griffith L. Garwood,

*Deputy Secretary of the Board.*

[FR Doc. 79-28999 Filed 9-18-79; 8:45 am]

BILLING CODE 6210-01-M

## Barnard Bankshares, Inc.; Formation of Bank Holding Company

Barnard Bankshares, Inc., Barnard, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 92.79 percent or more of the voting shares (less directors' qualifying shares) of Barnard State Bank, Barnard, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 9, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 7, 1979.

Griffith L. Garwood,

*Deputy Secretary of the Board.*

[FR Doc. 79-28992 Filed 9-18-79; 8:45 am]

BILLING CODE 6210-01-M

## Barnett Banks of Florida, Inc.; Acquisition of Bank

Barnett Banks of Florida, Inc., Jacksonville, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 50 per cent or more of the voting shares of The First National Bank & Trust Company of Eustis, Eustis, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 10, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing

the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 10, 1979.

Griffith L. Garwood,

*Deputy Secretary of the Board.*

[FR Doc. 79-28994 Filed 9-18-79; 8:45 am]

BILLING CODE 6210-01-M

## Barnett Banks of Florida, Inc.; Acquisition of Bank

Barnett Banks of Florida, Inc., Jacksonville, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 50 percent or more of the voting shares of Bank of Mount Dora, Mount Dora, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 10, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 10, 1979.

Griffith L. Garwood,

*Deputy Secretary of the Board.*

[FR Doc. 79-28996 Filed 9-18-79; 8:45 am]

BILLING CODE 6210-01-M

## Baylor Bancshares, Inc.; Formation of Bank Holding Company

Baylor Bancshares, Inc., Seymour, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of The First National Bank of Seymour, Seymour, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 13, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 12, 1979.

Griffith L. Garwood,

*Deputy Secretary of the Board.*

[FR Doc. 79-29006 Filed 9-18-79; 8:45 am]

BILLING CODE 6210-01-M

## C & F Bank Shares Corp.; Formation of Bank Holding Company

C & F Bank Shares Corporation, Kendallville, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Campbell & Fetter Bank, Kendallville, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (22 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 11, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 11, 1979.

Griffith L. Garwood,

*Deputy Secretary of the Board.*

[FR Doc. 79-29005 Filed 9-18-79; 8:45 am]

BILLING CODE 6210-01-M

## First Canyon Bancshares, Inc.; Formation of Bank Holding Company

First Canyon Bancshares, Inc., Canyon, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 81 per cent or more of the voting shares of First National Bank, Canyon, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 4, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 11, 1979.

Griffith L. Garwood,

*Deputy Secretary of the Board.*

[FR Doc. 79-29001 Filed 9-18-79; 8:45 am]

BILLING CODE 6210-01-M

## First National Bancorp of the South, Inc.; Formation of Bank Holding Company

First National Bancorp of the South, Inc., Opp, Alabama, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent or more of the voting shares of both the First National Bank of Opp, Opp, Alabama, and The Bank of Florala, Florala, Alabama. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 12, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 12, 1979.

Griffith L. Garwood,

*Deputy Secretary of the Board.*

[FR Doc. 79-29007 Filed 9-18-79; 8:45 am]

BILLING CODE 6210-01-M

## Hawkeye Bancorporation; Acquisition of Bank

Hawkeye Bancorporation, Des Moines, Iowa, has applied for the Board's approval under section 3(a)(3) of

the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of Waukon Financial Corporation, and its subsidiary bank, Waukon State Bank, Waukon, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 10, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing

Board of Governors of the Federal Reserve System, September 10, 1979.

Griffith L. Garwood,

*Deputy Secretary of the Board.*

[FR Doc. 79-29002 Filed 9-18-79; 8:45 am]

BILLING CODE 6210-01-M

## Kleberg & Co. Bankers, Inc.; Formation of Bank Holding Company

Kleberg and Company Bankers, Inc., Kingsville, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90 percent or more of the voting shares (less directors' qualifying shares) of Kleberg First National Bank of Kingsville, Kingsville, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 10, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 10, 1979.

Griffith L. Garwood,

*Deputy Secretary of the Board.*

[FR Doc. 79-29004 Filed 9-18-79; 8:45 am]

BILLING CODE 6210-01-M

## Northern National Bancshares, Inc.; Formation of Bank Holding Company

Northern National Bancshares, Inc., Bemidji, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 82.67 percent or more of the voting shares of Northern National Bank, Bemidji, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 10, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing

Board of Governors of the Federal Reserve System, September 10, 1979.

Griffith L. Garwood,

*Deputy Secretary of the Board.*

[FR Doc. 79-29003 Filed 9-18-79; 8:45 am]

BILLING CODE 6210-01-M

## Peoples Bancorporation, Inc.; Formation of Bank Holding Company

Peoples Bancorporation, Inc., Lakeland, Florida, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Peoples Bank of Lakeland, Lakeland, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 10, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 10, 1979.

Griffith L. Garwood,

*Deputy Secretary of the Board.*

[FR Doc. 79-29005 Filed 9-18-79; 8:45 am]

BILLING CODE 6210-01-M

## Valley Bancshares, Inc.; Formation of Bank Holding Company

Valley Bancshares, Inc., Atchison, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 87.19 per cent of the voting shares of The Valley State Bank, Atchison, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 11, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 11, 1979.

Griffith L. Garwood,

*Deputy Secretary of the Board.*

[FR Doc. 79-29000 Filed 9-18-79; 8:45 am]

BILLING CODE 6210-01-M

## Wyoming Bancorporation; Acquisition of Bank

Wyoming Bancorporation, Cheyenne, Wyoming, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of First Wyoming Bank-Douglas, Douglas, Wyoming. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas

City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than October 12, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would presented at a hearing.

Board of Governors of the Federal Reserve System, September 12, 1979.

Griffith L. Garwood,

*Deputy Secretary of the Board.*

[FR Doc. 79-29008 Filed 9-18-79; 8:45 am]

BILLING CODE 6210-01-M

## GENERAL SERVICES ADMINISTRATION

[E-79-8]

### Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the New Mexico Public Service Commission involving electric rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the New Mexico Public Service Commission involving the application of the Otero County Electric Cooperative, Incorporated, for an increase in electric rates and adjustment of rate schedule.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: September 5, 1979.

R. G. Freeman III,

*Administrator of General Services.*

[FR Doc. 79-28984 Filed 9-18-79; 8:45 am]

BILLING CODE 6820-AM-M

[E-79-9]

### Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Public Utility Commission of Texas involving electric utility rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Public Utility Commission of Texas involving the application of the El Paso Electric Company for an increase in its electric utility rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: September 6, 1979.

R. G. Freeman III,

*Administrator of General Services.*

[FR Doc. 79-28985 Filed 9-18-79; 8:45 am]

BILLING CODE 6820-AM-M

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Office of Education

### Accreditation and Institutional Eligibility Advisory Committee; Public Meeting

**AGENCY:** Department of Health, Education, and Welfare, Office of Education.

**ACTION:** Notice of Public Meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of the next public meeting of the Advisory Committee on Accreditation and Institutional Eligibility. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of its opportunity to attend and participate.

**DATES:** October 31, 1979, 1:00 p.m. to 5:30 p.m., local time; and November 1, 9:00 a.m. to 3:45 p.m. Requests for oral presentations before the Advisory Committee must be received on or before October 19, 1979. All written materials which a party wishes to file may be submitted at any time and will be considered by the Advisory Committee.

**ADDRESS:** Dulles Marriott Hotel, Dulles International Airport, Washington, D.C. 20041.

**FOR FURTHER INFORMATION CONTACT:** John R. Proffitt, Director, Division of Eligibility and Agency Evaluation, Office of Education, Room 3030, ROB 3, 400 Maryland Avenue, SW., Washington, D.C. 20202 (202/245-9873).

The Advisory Committee on Accreditation and Institutional Eligibility is established pursuant to section 253 of the Veterans' Readjustment Assistance Act (Chapter 33, Title 38, U.S. Code). The Committee advises the Commissioner of Education regarding his responsibilities to publish lists of nationally recognized accrediting agencies and associations; State agencies recognized for the approval of public post-secondary vocational education; and accrediting and State agencies recognized for the approval of nurse education. The Committee also advises the Commissioner regarding requests by Federal agencies and institutions seeking Congressional authority to grant degrees; and regarding policy affecting accreditation and institutional eligibility for participation in Federal funding programs.

The meeting on October 31 and November 1 will be open to the public. This meeting will be held at the Dulles Marriott Hotel, Washington, D.C. The Advisory Committee will review petitions and reports by accrediting and State approval agencies relative to initial or continued recognition by the U.S. Commissioner of Education. The Committee also will hear presentations by representatives of the petitioning agencies and interested third parties. Agencies having petitions and reports pending before the Committee are:

American Assembly of Collegiate Schools of Businesss, Accrediting Council (renewal or recognition)

American Physical Therapy Association, Committee on Accreditation in Education (renewal of recognition)

Association of Independent Colleges and Schools, Accrediting Commission (renewal of recognition)

Minnesota State Board for Vocational-Technical Education (renewal of Recognition)

National Accreditation Association and the American Examining Board of

Psychoanalysis, Inc., Education and Accreditation Committee (initial recognition)
New York State Board of Regents (Nursing Education Unit) (renewal of recognition)
Photographic Art and Science Foundation, Inc., Accreditation Commission (initial recognition)

Requests for oral presentations before the Advisory Committee should be submitted in writing to the Director, Division of Eligibility and Agency Evaluation, Office of Education, Room 3030, ROB 3, 400 Maryland Avenue, SW., Washington, D.C. 20202. Requests should include the names of all persons seeking an appearance, the party or parties which they represent (if applicable), and the purpose for which the presentation is requested. Requests must be received by the Division of Eligibility and Agency Evaluation on or before October 19, 1979. Time constraints may limit oral presentations. However, all additional written material that a party wishes to file will be considered by the Advisory Committee.

Records shall be kept of all Committee proceedings and shall be available for public inspection at the Division of Eligibility and Agency Evaluation.

Signed at Washington, D.C., on September 14, 1979.

John R. Proffitt,

*Director, Division of Eligibility and Agency Evaluation, Office of Education.*

[FR Doc. 79-29070 Filed 9-18-79; 8:45 am]

BILLING CODE 4110-02-M

## Office of Human Development Services

## Administration for Children, Youth, and Families; Head Start: Announcement of Program Funding Levels in States for Fiscal Year 1979

**AGENCY:** Office of Human Development Services, DHEW.

**ACTION:** Notice of Funding Levels to States.

**SUMMARY:** The Administration for Children, Youth and Families announces the amount of funds which will be awarded to Head Start projects within each state during Fiscal Year 1979. The amount of funds to be expended in each state is determined in accordance with provisions governing the distribution of funds in Section 513(a) Title V, Head Start—Follow Through Act (Economic Opportunity Act of 1964, as amended).

**FOR FURTHER INFORMATION CONTACT:** James L. Robinson Associate Director, Head Start Bureau 202-755-7782.

**SUPPLEMENTARY INFORMATION:** The Fiscal Year 1979 appropriation for Head Start is $680 million, an increase of $55 million over the Fiscal Year 1978 funding level. This increase will be used:

(1) To provide existing grantees with additional funds to offset higher operating costs; and,

(2) To serve additional children through existing projects in States where funds are available after offsetting higher operating costs.

Approximately $640 million of the $680 million appropriation will be used to fund local Head Start projects. The remaining $40 million will support training and technical assistance, research, demonstration and evaluation activities, special projects for handicapped children, and special awards to improve facilities in local projects.

| | *Fiscal year 1979 funding level* |
|---|---|
| Region I: | |
| Connecticut | $5,857,437 |
| Maine | 2,582,332 |
| Massachusetts | 14,806,205 |
| New Hampshire | 1,289,414 |
| Rhode Island | 2,101,983 |
| Vermont | 1,379,686 |
| Region II: | |
| New Jersey | 18,966,621 |
| New York | 45,803,472 |
| Puerto Rico | 25,287,264 |
| Virgin Islands | 1,987,710 |
| Region III: | |
| Delaware | 1,425,730 |
| Dist. of Col. | 4,592,653 |
| Maryland | 8,349,919 |
| Pennsylvania | 27,079,429 |
| Virginia | 8,490,403 |
| West Virginia | 5,093,617 |
| Region IV: | |
| Alabama | 14,232,070 |
| Florida | 16,454,992 |
| Georgia | 14,740,733 |
| Kentucky | 13,668,168 |
| Mississippi | 43,535,099 |
| North Carolina | 14,436,935 |
| South Carolina | 8,775,838 |
| Tennessee | 12,168,797 |
| Region V: | |
| Illinois | 32,842,843 |
| Indiana | 8,301,221 |
| Michigan | 25,253,514 |
| Minnesota | 6,430,335 |
| Ohio | 26,219,465 |
| Wisconsin | 8,877,958 |
| Region VI: | |
| Arkansas | 7,207,529 |
| Louisiana | 12,492,739 |
| New Mexico | 3,719,907 |
| Oklahoma | 8,821,817 |
| Texas | 26,566,897 |
| Region VII: | |
| Iowa | 4,395,019 |
| Kansas | 4,248,596 |
| Missouri | 12,241,204 |
| Nebraska | 2,895,401 |
| Region VIII: | |
| Colorado | 5,702,484 |
| Montana | 1,717,778 |
| North Dakota | 800,463 |
| South Dakota | 1,337,365 |
| Utah | 2,346,683 |
| Wyoming | 912,060 |
| Region IX: | |
| Arizona | 5,309,330 |
| California | 58,234,112 |
| Hawaii | 2,509,455 |
| Nevada | 857,523 |
| Outer Pacific Islands | 1,752,963 |
| Region X: | |
| Alaska | 1,742,947 |
| Idaho | 1,725,708 |
| Oregon | 5,127,560 |
| Washington | 6,735,789 |
| Projects serving Native American children and children of migratory farmworkers | 37,276,000 |
| Grand total | 539,969,184 |

(Catalog of Federal Domestic Assistance program Number 13.600—Administration for Children, Youth and Families—Head Start)

Dated: September 7, 1979.

Herschel Saucier,

*Acting Commissioner for Children, Youth and Families.*

Approved: September 13, 1979.

Arabella Martinez,

*Assistant Secretary for Human Development Services.*

[FR Doc. 79-29097 filed 9-18-79; 8:45 am]

BILLING CODE 4110-92-M

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

## Arizona; Phoenix District, Kingman Resource Area Grazing Advisory Board Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Kingman Resource Area (Phoenix District) Grazing Advisory Board will be held on November 1, 1979.

The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land Management Office, 2475 Beverly Avenue, Kingman, Arizona 86401.

The agenda for the meeting will include:

(1) Allotment Management Plans—Development and implementation.

(2) Wilderness—Effect on AMP Implementation.

(3) Unit Resource Analysis—Data Development for Allotment Management Plans.

(4) Status of Range Improvement Projects.

(5) Arrangements for Future Meetings, Time and Agenda Items.

The meeting is open to the public. Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona 85017 at least seven days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: September 11, 1979.

William K. Barker,

*District Manager.*

[FR Doc. 79-29053 Filed 9-18-79; 8:45 am]

BILLING CODE 4310-84-M

## Arizona; Phoenix District, Phoenix/Lower Gila Resource Areas Grazing Advisory Board Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Phoenix/Lower Gila Resource Areas (Phoenix District) Grazing Advisory Board will be held on November 8, 1979.

The meeting will consist of a field trip to the Pipeline Allotment, located north of Wickenburg, Arizona. Discussions will be held in the benefits of grazing systems and allotment evaluation studies.

All who would like to participate in the tour are to meet at the Alamo Road turnoff, 20 miles north of Wickenburg, Arizona on Highway 93 at 9:30 a.m. Transportation will be provided for up to twenty passengers; however, attendees should plan on utilizing their own transportation in the event that more than twenty people participate in the tour.

At the conclusion of the tour, arrangements will be made for future meetings, time and agenda items.

The meeting is open to the public. Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona 85017 at least seven days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: September 11, 1979.

William K. Barker,

*District Manager.*

[FR Doc. 79-29054 Filed 9-18-79; 8:45 am]

BILLING CODE 4310-84-M

---

[AA-9206-A]

## Alaska Native Claims Selection

This decision approves lands located near Katlian Bay on Baranof Island in the Tongass National Forest for conveyance to Shee. Atika, Incorporated.

On December 17, 1975, Shee. Atika, Incorporated, filed selection application AA-9206-A under the provisions of Sec. 14(h)(3) of the Alaska Native Claims Settlement Act (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(h)(3) (1976)), for the surface estate of certain lands within the Tongass National Forest (Proclamation, September 10, 1907, as amended) located on Baranof Island. These lands were withdrawn for its selection by Public Land Order No. 5549 on November 21, 1975.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, aggregating approximately 3,190 acres, is considered proper for acquisition by Shee. Atika, Incorporated and is hereby approved for conveyance pursuant to Sec. 14(h)(3) of ANCSA:

Copper River Meridian, Alaska (Unsurveyed)

T. 54 S., R. 63 E.,
Sec. 25 (fractional), N½.
Containing approximately 245 acres.
T. 54 S., R. 64 E.,
Sec. 19 (fractional), all;
Sec. 20 (fractional), excluding U.S. Survey 2117 (Homestead Entry Survey 228);
Sec. 21, all;
Sec. 22, W½;
Sec. 28, N½;
Sec. 29 (fractional), excluding U.S. Survey 2117 (Homestead Entry Survey 228);
Sec. 30 (fractional), N½;
Sec. 32, E½.
Containing approximately 2,945 acres.
Aggregating approximately 3,190 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(h)(3), (1976)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (1976)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA-9206-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

*60 Foot Road*—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

*One Acre Site*—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

a. (EIN 53 D9, G, M) An easement sixty (60) feet in width for an existing road beginning in Sec. 19, T. 54 S., R. 64 E., Copper River Meridian, at site EIN 59 C5 on the north shore of Katlian Bay, easterly to a road fork with the east fork proceeding easterly along the Katlian River to public lands and the south fork of the existing road proceeding southerly to public lands. The uses allowed are those listed above for a sixty (60) foot wide road easement.

b. (EIN 54 G) An easement sixty (60) feet in width for an existing road which branches off of road EIN 53 D9, G, M in Sec. 20, T. 54 S., R. 64 E., Copper River Meridian, paralleling the west bank of Cove River northerly to public land. The uses allowed are those listed above for a sixty (60) foot wide road easement.

c. (EIN 59 C5) A one acre site easement upland of the mean high tide line in Sec. 19, T. 54 S., R. 64 E., Copper River Meridian, on the north shore of Katlian Bay. The uses allowed are those listed above for a one (1) acre site.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1976))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act, any valid existing right recognized by the Alaska Native Claims Settlement Act shall continue to have whatever right of access as is now provided for under existing law;

3. The following third-party interest, if valid, created and identified by the Forest Service as provided by Sec. 14(g) of the Alaska Native Claims Settlement Act.

Special Use Permit 1001 dated January 8, 1963 to Alaska Department of Fish and Game for a cabin located near Katlian Creek in Sec. 29, T. 54 S., R. 64 E., Copper River Meridian; and

4. Requirements of Sec. 22(k) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 715; 43 U.S.C. 1601, 1621(k) (1976)), that, until

December 18, 1983, the portion of the above-described lands located within the boundaries of a national forest shall be managed under the principles of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands.

Shee. Atika, Incorporated is entitled to conveyance of 23,040 acres of land selected pursuant to Sec. 14(h)(3) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 3,190 acres. The remaining entitlement of approximately 19,850 acres will be conveyed at a later date.

Pursuant to Sec. 14(h)(3) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Sealaska Corporation when the surface estate is conveyed to Shee. Atika, Incorporated, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the above described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the DAILY SITKA SENTINEL. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until October 15, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99510.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Shee. Atika, Incorporated, P.O. Box 4578, Mt. Edgecumbe, Alaska 99835.
Sealaska Corporation, One Sealaska Plaza, Suite 400, Juneau, Alaska 99801.

Sue A. Wolf,.

*Chief, Branch of Adjudication.*

[FR Doc. 79-29030 Filed 9-18-79; 8:45 am]
BILLING CODE 4310-84-M

---

[NM 38222]

## New Mexico; Application

September 10, 1979

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 32 N., R. 10 W.,
Sec. 22, lot 5;
Sec. 23, lots 12 and 13;
Sec. 26, lot 4;
Sec. 27, lot 1.

This pipeline will convey natural gas across 0.51 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Managment, P.O. Box 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

*Chief, Branch of Lands and Minerals Operations.*

[FR Doc. 79-29055 Filed 9-18-79; 8:45 am]
BILLING CODE 4310-84-M

---

[NM 38150]

## New Mexico; Application

September 11, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for one 4-inch natural gas pipeline and related facilities right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 20 S., R. 34 E.,
Sec. 6, lot 7, SE¼SW¼;
Sec. 7, N½NE¼;
Sec. 8, S½NE¼, N½NW¼ and SE¼NW¼;
Sec. 9, SW¼NW¼, N½SW¼ and NW¼SE¼.

This pipeline will convey natural gas across 2.475 miles of public land in Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Fred E. Padilla,

*Chief, Branch of Lands and Minerals Operations.*

[FR Doc. 79-29036 Filed 9-18-79; 8:45 am]
BILLING CODE 4310-84-M

---

[NM 38170, 38171 and 38176]

## New Mexico; Applications

September 10, 1979

Notice is hereby given that, pursuant to Seciton 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for three 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 30 N., R. 6 W.,
Sec. 7, N½SE¼.
T. 29 N. R. 10 W.,
Sec. 4, lots 14 and 19.
T. 31 N., R. 11 W.,
Sec. 15, SW¼SW¼.

These pipelines will convey natural gas across 0.341 of a mile of public lands in San Juan and Rio Arriba Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management,

P.O. Box 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

*Chief Branch of Lands and Minerals Operations.*

[FR Doc. 79-29057 Filed 9-18-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38206]

## New Mexico; Application

September 10, 1979

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 32 N., R. 11 W., sec. 10, lot 3.

This pipeline will convey natural gas across 0.137 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

*Chief Branch of Lands and Minerals Operations.*

[FR Doc. 79-29058 Filed 9-18-79; 8:45 am]

BILLING CODE 4310-84-M

## Colorado, Utah and Wyoming; Announcement of Federal Regional Coal Team Meeting

**AGENCY:** Department of the Interior, Bureau of Land Management.

**ACTION:** Announcement of Green River-Hams Fork Federal Regional Coal Team Meeting.

**DATE:** 9:30 a.m., October 1, 1979.

**ADDRESS:** Meeting will be held in the Geological Survey Auditorium, Building 85, Denver Federal Center, Denver, Colorado.

**FOR FURTHER INFORMATION CONTACT:** Gary J. Wicks, Regional Coal Team Chairman (801) 524-5311.

**SUMMARY:** The Bureau of Land Management is announcing a meeting of the Green River-Hams Fork Federal Regional Coal Team to conduct business pursuant to Departmental rules 43 CFR 3400.4, 44 FR 42612, July 19, 1979.

Arnold E. Petty,

*Acting Associate Director, Bureau of Land Management.*

September 14, 1979.

[FR Doc. 79-29071 Filed 9-18-79; 8:45 am]

BILLING CODE 4310-84-M

[M 44302-M 44303]

## Montana; Right-of-Way Applications for Pipeline

*Correction*

In FR Doc. 79-26685 appearing on page 50416 in the issue for Tuesday, August 28, 1979, in the second line of the land description, change: "T. 9 N., R. 25 E., Sec. 34, NE¼SW¼" to read "T. 9 N., R. 24 E., Sec. 34, NE¼SW¼".

## Bureau of Reclamation

## Contract With Edward R. Hayes and Jerome A. Lukes, Mohave County, Ariz.; Availability of Draft Contract To Amend Existing Water Service Contract

The Department of the Interior, through the Bureau of Reclamation, intends to amend the existing water service contract with Edward R. Hayes and Jerome A. Lukes, dated July 22, 1974 (No. 14-06-300-2546), to extend by 2 years the termination date for failure to divert or utilize water. The draft amendatory contract is written pursuant to the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1057), and the Reclamation Project Act of 1939 (53 Stat. 1187).

The 1974 water service contract provides for the annual delivery of not to exceed 1,200 acre-feet of Colorado River water for the development of salt mining in Detrital Valley, Mohave County, Arizona. Although the 1974 contract is for permanent service, it contains a termination provision if the contractor fails to divert or utilize water within 5 years of the date of the contract.

The public is invited to submit written comments on the draft amendatory contract within 30 days of the date of this announcement. All written correspondence concerning the draft amendatory contract is available to the public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

For further information and copies of the draft amendatory contract, please contact Mrs. Lois Casey, Contracts and Repayment Branch, Bureau of Reclamation, P.O. Box 427, Boulder City, Nevada 89005, telephone No. (702) 293-8651.

Dated: September 11, 1979.

Aldon D. Nielsen,

*Acting Assistant Commissioner of Reclamation.*

[FR Doc. 79-28818 Filed 9-18-79; 8:45 am]

BILLING CODE 4310-09-M

## Domestic and Municipal Water Service Contract Negotiations, Boysen Unit, Wyoming; Intent To Negotiate for Domestic and Municipal Water Service

The Department of the Interior, through the Bureau of Reclamation intends to begin negotiations for water service contracts with the town of Shoshoni, Wyoming, the Lucerne Water and Sewer District, entities for long-term domestic and municipal water service from Boysen Reservoir.

Water service arrangements have been requested to provide future water supplies to supplement or replace existing water sources. Under proposed arrangements, the United States would deliver water at points on the reservoir or from the outlet works of Boysen Dam, and all costs associated with delivering Boysen water to the various systems would be the responsibility of the individual entities. A water service charge and an appropriate charge for a share of Boysen Unit annual operating costs would be applicable. The proposed contracts will not involve more than 200 acre-feet of water annually.

The contract would be negotiated pursuant to section 9(c) of the Act of August 4, 1939 (53 Stat. 1186).

The public may observe any contract negotiation sessions. Advance notice of negotiating sessions shall be furnished only to parties having previously submitted a written request for such notice to the office identified below at least 1 week prior to any session. Requests must identify the contract in which the requesting party is interested. Requests should be addressed to the Regional Director, Bureau of Reclamation, attention Code 440, P.O. Box 2553, Billings, Montana 59103.

A proposed draft contract will be made available for public review following completion of contract negotiations. A 30-day period will be allowed for receipt of written comments from the public.

All written correspondence concerning the proposed contract will be made pursuant to the Freedom of Information Act (80 Stat. 383), as amended.

For further information on scheduled contract negotiating sessions and copies of the proposed contract form, please contact

Ms. Elaine Ellingson, Repayment Technician, Division of Water and Land, at the address stated above or by telephone (406) 657-6455.

Dated: September 11, 1979.

Aldon D. Nielsen,

*Acting Assistant Commissioner of Reclamation.*

[FR Doc. 79-28819 Filed 9-18-79; 8:45 am]

BILLING CODE 4310-09-M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Proposed Final Judgment in United States v. Martin Marietta Corp. et al. and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a proposed Final Judgment and a Competitive Impact Statement (CIS) as set out below have been filed with the United States District Court for the Northern District of Illinois at Chicago in *United States* v. *Martin Marietta Corporation, et al.*, Civil No. 79C-3626. The Complaint in this case alleges that Martin Marietta Corporation, headquartered in Bethesda, Maryland, would violate the Clayton Act by acquiring the Wedron Silica Company of Park Ridge, Illinois, a wholly-owned subsidiary of Twentieth Century-Fox Film Corporation of Los Angeles, California.

The proposed decree would require Martin Marietta Corporation with 12 months of the entry of the decree to divest itself of two industrial sand plants, the Prairie State plant near Troy Grove, Illinois and the Oregon plant located in Oregon, Illinois. The CIS describes the terms of the Judgment and the background of the action and concludes that the proposed judgment provides appropriate relief against the violation alleged in the complaint.

Public comment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the Federal Register and filed with the Court. Comments should be directed to John E. Sarbaugh, Chief Midwestern Office, Antitrust Division, Department of Justice, 2634 Everett M. Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604 (telephone: 312-353-7538).

Dated: September 11, 1979.

Joseph H. Widmar,

*Director of Operations Antitrust Division Department of Justice.*

U.S. District Court, Northern District of Illinois, Eastern Division

*United States of America, Plaintiff,* vs. *Martin Marietta Corporation, et al., Defendant.* Civil Action No. 79C-3626. Filed: September 11, 1979.

Stipulation

Plaintiff, United States of America, and defendant, Martin Marietta Corporation, by their undersigned attorneys, hereby stipulate and agree to the following:

(1) Upon the filing of the proposed final judgment in this action on September 11, 1979 ("proposed final judgment"), plaintiff shall withdraw its application, filed on Friday, August 31, 1979, for a temporary restraining order and preliminary injunction barring consummation of the transaction challenged in its complaint, in order that defendant may consummate its purchase agreement, dated August 6, 1979, with Twentieth Century-Fox Corporation at any time after 5:00 p.m. Central Daylight Time on September 11, 1979.

(2) Subsequent to consummation of its purchase agreement with Twentieth Century-Fox Corporation and pending entry by the court of the proposed final judgment, defendant shall maintain the competitive viability of its Oregon, Illinois high-silica sand plant and the Prairie State, Illinois, and Wedron, Illinois high-silica sand plants acquired from Twentieth Century-Fox Corporation, so as to insure that any of these plants may be divested as going concerns and effective independent competitors in the production and sale of high-silica sand. In addition, after consummation of its purchase agreement with Twentieth Century-Fox Corporation and pending entry of the proposed final judgment, defendant shall not cause or permit the destruction, removal or impairment of any of the assets associated with said plants except in the normal course and operation of defendant's business and except for normal wear and tear, without prior approval of the plaintiff or, failing such approval, of the court.

(3) In the event that (a) the proposed final judgment is not entered by the court after compliance with the provisions of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(a), and that (b) defendant has consummated its purchase agreement within Twentieth Century-Fox Corporation pursuant to paragraph 1 hereof, the defendant shall:

(i) continue to maintain the viability of the Oregon, Prairie State, and Wedron plants as provided for in paragraph 2 hereof until a final judgment is entered in this action by the court; and

(ii) proceed to trial on the merits on an expedited basis after receipt of notice that the court has determined not to enter the proposed final judgment herein.

John E. Sarbaugh,

*Attorney for Plaintiff.*

J. Wallace Adair,

*Attorney for Defendant Martin Marietta Corporation.*

Dated: September 11, 1979.

So ordered:

John Powers Crowley,

*United States District Judge.*

Dated: September 11, 1979.

U.S. District Court, Northern District of Illinois, Eastern Division

*United States of America, Plaintiff* v. *Martin Marietta Corporation, et al., Defendant.*

Civil Action No. 79C-3626.

Filed: September 11, 1979.

Stipulation

It is stipulated by and between the undersigned parties, plaintiff, United States of America and defendant, Martin Marietta Corporation by their respective attorneys, that:

(1) A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to either party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

(2) In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff and defendant in this and any other proceeding.

Dated: September 11, 1979.

For the Plaintiff: United States of America; John H. Shenefield, *Assistant Attorney General;* Mark Leddy, John E. Sarbaugh, Francis C. Hoyt, Kenneth H. Hanson, Beatrice Stefun, *Attorneys, Department of Justice.* Antitrust Division, Room 2634, Everett M. Dirksen Building, Chicago, Illinois 60604, (312) 353-7523.

For the Defendant: Martin Marietta Corporation; by J. Wallace Adair, *Attorney for Defendant, Martin Marietta Corporation.*

U.S. District Court, Northern District of Illinois, Eastern Division

*United States of America, Plaintiff,* v. *Martin Marietta Corporation, et al., Defendant.* Civil Action No. 79C-3626. Filed: September 11, 1979.

Final Judgment With Respect to Martin Marietta Corp.

Plaintiff, United States of America, having filed its complaint herein on August 31, 1979, and Martin Marietta Corporation

("defendant") having appeared, and the plaintiff and defendant, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or any admission by any party with respect to any issue of fact or law herein;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby Ordered, adjudged and decreed:

I

This Court has jurisdiction over the subject matter herein and the parties hereto. The Complaint states claims upon which relief may be granted against the defendant under Section 7 of the Act of Congress of October 15, 1914, as amended (15 U.S.C. 18), commonly known as the Clayton Act.

II

A. The "Oregon plant" means the high-silica sand production facility located in Oregon, Illinois and includes approximately 676 acres of real property owned by defendant in fee and the plant, capital equipment, and any other interests or assets associated with the facility.

B. The "Prairie State plant" means the high-silica sand production facility located near Troy Grove, Illinois and includes approximately 228 acres of real property lease-hold interest and the plant, capital equipment, and any other interests or assets associated with the facility.

The provisions of this Final Judgment shall apply to the defendant and to each of its subsidiaries, successors and assigns, and to each of their officers, directors, agents, employees and attorneys, and upon those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

A. Defendant is hereby ordered and directed to divest itself within twelve (12) months of the date of this Final Judgment of all of its interest in the Oregon plant and the Prairie State plant. Divestiture shall be accomplished in such a way as to ensure that each plant will operate, either individually or as a combined unit, as an effective competitor in the production and sale of high-silica sand. Divestiture shall be made to a person or persons approved by the plaintiff or, failing such approval, by the court.

B. In the event defendant has not accomplished said divestiture within twelve (12) months, it may petition the Court, prior to the expiration of said twelve (12) months, for an additional period not to exceed six (6) months within which to consummate said divestiture. If defendant files such a petition, plaintiff may petition the Court at that time to appoint a trustee to effect said divestiture. The provisions of IV(C) shall apply to a trustee appointed under this paragraph.

C. If a petition by defendant pursuant to IV(B) is granted by the Court and divestiture is not effected within the period allowed, the Court, upon application of the plaintiff, shall appoint a trustee to effect divestiture in accordance with the provisions of this Final Judgment. The trustee shall have full power and authority to dispose of both plants at whatever price and terms obtainable, subject to the approval of this Court. The trustee shall serve at the cost and expense of defendant.

V

A. Defendant shall promptly report the details of any proposed sale of either the Oregon or Prairie State plants, or both, to the plaintiff.

B. Following the receipt of any plan of sale, plaintiff shall have ten (10) business days in which to object to the proposed sale by written notice to defendant. If plaintiff does not object of the proposed sale, it may be consummated after notice of the proposed sale is given to the Court. If plaintiff does object, the proposed sale shall not be consummated until defendant obtains the Court's approval of the proposed sale or until plaintiff withdraws its objection.

VI

Each sixty (60) days from entry of this Final Judgment until divestiture has been completed, defendant shall file with this Court and serve on the plaintiff an affidavit together with relevant documentation (including the names of parties who have been contacted) as to the fact and manner of compliance with Section IV of this Final Judgment.

VII

For the purpose of securing or determining compliance with this Final Judgment, and subject to any legally recognized privilege:

A. Any duly authorized representative or representatives of the Department of Justice shall, upon written request by the Attorney General or the Assistant Attorney General in charge of the Antitrust Division and on reasonable notice to defendant made to its principal office, be permitted:

(1) Access during the office hours of the defendant, which may have counsel present, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendant relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of defendant and without restraint or interference from it, to interview officers or employees of defendant, who may have counsel present, regarding any such matters.

B. No information or documents obtained by the means provided in Sections VI and VII hereof shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

C. If at the time information or documents are furnished by defendant to plaintiff, defendant represents and identifies in writing the material in any such information or documents of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days' notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which that defendant is not a party.

VIII

It is further ordered that defendant shall not cause or permit the destruction; removal or impairment of any of the assets to be divested in accordance with paragraph IV of the Final Judgment except in the ordinary course and operation of defendant's business and except for normal wear and tear.

IX

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

Entry of this Final Judgment is in the public interest.

---

United States District Judge
Dated: ———————

**U.S. District Court, Northern District of Illinois, Eastern Division**

*United States of America, Plaintiff* v. *Martin Marietta Corporation, et al., Defendant.* Civil Action No. 79C-3626. Filed: September 11, 1979.

**Competitive Impact Statement**

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. Sec. 16(b)-(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgement submitted for entry in this civil antitrust proceeding.

I

**Nature of the Proceedings**

On August 31, 1979, the United States filed a civil antitrust Complaint alleging that the proposed acquisition by Martin Marietta of all of the assets of the Wedron Silica Company, a wholly owned subsidiary of Twentieth Century-Fox Film Corporation, would violate Section 7 of the Clayton Act. The Complaint alleges that the proposed acquisition would eliminate actual and potential competition between Martin Marietta and Wedron in the production and sale of industrial sand; that actual and potential competition generally in the production and sale of industrial sand would be substantially lessened; that Wedron would be eliminated as an independent competitive factor in the production and sale of industrial sand; and that concentration in the production and sale of industrial sand would be unduly increased. The Complaint sought a preliminary injunction against the defendants enjoining and restraining each of them from taking any action to consummate the proposed acquisition.

The United States and Martin Marietta have agreed in a Stipulation that upon the filing of the proposed Final Judgment on September 11, 1979, the Plaintiff shall withdraw its application for a temporary restraining order and preliminary injunction barring consummation of the acquisition in order that Martin Marietta may consummate its purchase agreement, dated August 6, 1979, with Twentieth Century-Fox Corporation at any time after 5:00 p.m. on September 11, 1979, for the acquisition of the Wedron assets.

The Stipulation also provides that subsequent to the consummation of its purchase agreement with Twentieth Century-Fox Corporation and pending entry by the Court of the Proposed Final Judgment, Martin Marietta shall maintain the viability of its Oregon, Illinois, high-silica sand plant, and the Prairie State, Illinois, and Wedron, Illinois high-silica sand plants acquired from Twentieth Century-Fox Corporation, so as to insure that any of these plants may be divested as going concerns and effective independent competitors in the production and sale of high-silica sand. In addition, after consummation of its purchase agreement with Twentieth Century-Fox Corporation and pending entry of the proposed Final Judgment, the defendant Martin Marietta shall not cause or permit the destruction, removal or impairment of any of the assets associated with said plants except in the normal course of business without prior approval by the Plaintiff or, failing that, by the Court.

In the event that the proposed Final Judgment is not entered by the Court and Martin Marietta has consummated its purchase agreement to acquire the Wedron assets, Martin Marietta shall continue to maintain the viability of the Oregon, Prairie State, and Wedron plants until a final Judgment is entered in this action by the Court; and the defendant Martin Marietta shall proceed to trial on an expedited basis after receipt of notice that the Court has determined not to enter the proposed Final Judgment.

II

Description of Practices Involved in the Alleged Violation

In the years preceding the acquisition, Martin Marietta and Wedron engaged in competition in the production and sale of industrial sand within a five-state area of Illinois, Indiana, Wisconsin, Ohio and Michigan, and within the state of Illinois. On August 6, 1979, Martin Marietta and Twentieth Century-Fox Corporation entered into an asset purchase agreement whereby Martin Marietta would acquire all of the assets of the Wedron Silica Company, a subsidiary of Twentieth Century-Fox Corporation, thus eliminating the competition in the production and sale of industrial sand that previously existed between them. The competitive overlap both in the five-state area and in the state of Illinois between Martin Marietta and Wedron was primarily between the Wedron and Prairie State plants of Wedron and the Oregon plant of Martin Marietta. All three of these plants are located in Northern Illinois and mine sand from that portion of the "St. Peter's" geological sandstone stratum located in Illinois. The industrial sand mined from this stratum is a high-quality silica sand suitable for use in both the glass and foundry industries and, to a lesser extent, in a variety of other industries. The market shares of Martin Marietta and Wedron combined by the acquisition would approximate 29.8 percent of the production of industrial sand in the five-state area, and a combined production share in the state of Illinois of about 52.6 percent.

III

Explanation of the Proposed Final Judgment

Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed Final Judgment by the Court is conditioned upon a determination by the Court that the proposed Final Judgment is in the public interest.

A. *Divestiture*

The terms of the Final Judgment require Martin Marietta Corporation to divest itself within twelve (12) months from the date of entry of the Final Judgment of all its interests in the Oregon and the Prairie State plants so that each plant may operate as a going concern and effective competitor in the production and sale of high-silica industrial sand. Any plan of sale of these assets will be reviewed by the Plaintiff, and if the Plaintiff objects the proposed sale cannot be consummated until the defendant obtains the Court's approval of the proposed sale or the Plaintiff withdraws its objection.

If Martin Marietta has not completed the required divestitute within twelve (12) months after the entry of the proposed Final Judgment, it may petition the Court, prior to the expiration of said twelve (12) months, for an additional six (6) months to consummate said divestitute and, at that time, Plaintiff may petition the Court to appoint a trustee to facilitate said divestiture. In the event that defendant moves for and is granted an extension of time within which to consummate said divestiture and fails thereafter to divest, the Court, upon application of the Plaintiff, shall appoint a trustee to accomplish the divestitute ordered. The trustee shall have full power and authority to dispose of both plants at whatever price and terms obtainable, subject to the approval of the Court. The trustee shall serve at the expense of the defendant.

Martin Marietta Corporation is required to promptly report the details of any proposed sale of either the Oregon or Prairie State plants, or both, to the Plaintiff. Also, each sixty (60) days from the entry of the Final Judgment until divestiture has been completed, Martin Marietta shall file with the Court and serve on the Plaintiff an affidavit, together with relevant documentation, including the names of parties contacted, regarding its compliance with the required divestiture of the Oregon and Prairie State plants. The Final Judgment further requires that Martin Marietta shall not cause or permit the destruction, removal or impairment of any of the assets to be divested except in the ordinary course of operation of defendant's business and except for normal wear and tear.

B. *Effect of the Proposed Final Judgment on Competition*

The relief encompassed in the proposed Final Judgment will maintain the competition that would have been eliminated as a result of the acquisition of the Wedron assets by Martin Marietta. The proposed Final Judgment requires Martin Marietta to divest more productive industrial sand capacity in the five-state area and in the state of Illinois than it acquired from Wedron. The divestitute of the Oregon and Prairie State plants, together with the assets and reserves appropriate to support such productive capacity, will insure that concentration in those market areas is not increased. Also, if the Oregon and Prairie State plants are divested to two different purchasers, concentration will be decreased.

Accordingly, it is the opinion of the Department of Justice that the proposed Final Judgment is fully adequate to remove the anticompetitive effects of the acquisition. It is also the opinion of the Department that disposition of the matter without further litigation is appropriate in view of the fact that the proposed Final Judgment includes the form and scope of relief equal to that which might be obtained after a full airing of the issues at trial.

IV

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. Sec. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in Federal Court to recover three times the damages such person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed Final Judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. Sec. 16(a)), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuits which may be brought against these defendants.

V

Procedures Available for the Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person who wishes to comment upon the proposed Final Judgment may submit written comments to John E. Sarbaugh, Chief, Chicago Field Office, Antitrust Division, United States Department of Justice, Room 2634, 219 South Dearborn Street, Chicago, Illinois 60604, within the 60-day period provided by the Act. These comments and the Government's responses to them will be filed with the Court and published in the Federal Register. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to its entry if it should determine that some modification of the Final Judgment is necessary. Section IX of the proposed Judgment provides that the Court retains jurisdiction over this action and that the parties may apply to the Court for such order as may be necessary or

appropriate for its modification, interpretation or enforcement.

VI

Alternative to the Proposed Final Judgment

The alternative to the proposed Final Judgment considered by the Antitrust Division was a full trial of the issues on the merits and on relief. The Division considered the substantive language of the proposed Judgment to be of sufficient scope and effectiveness to make litigation on the issues unnecessary, as the Judgment provides appropriate relief for the violation alleged in the Complaint.

VII

Other Materials

There are no materials or documents which the Government considered determinative in formulating this proposed Final Judgment. Therefore, none is being filed along with this Competitive Impact Statement.

Francis C. Hoyt,

Kenneth H. Hanson,

John E. Sarbaugh,

*Attorneys, U.S. Department of Justice.*

[FR Doc. 79-29060 Filed 9-18-79; 8:45 am]

BILLING CODE 4410-01-M

## METRIC BOARD

### Public Forum

Notice is hereby given that the United States Metric Board will hold a Public Forum on Thursday, October 18, 1979, from 9:30 a.m. to 1:00 p.m. The forum will be held in conjunction with the Metric Board's regular October meeting. Notice of the regular meeting appears in the Sunshine Meeting section of this issue. The Forum will be held at the Dearborn Inn, Oakwood Boulevard, Dearborn, Michigan 48123 in the Greenfield Room.

The purpose of the Forum will be to allow Board Members to receive comments about increased metric usage and voluntary metric conversion from individuals and from representatives of groups or organizations. The public is invited and encouraged to provide oral or written comments and ask questions of the Board from 11:00 a.m. to 1:00 p.m. Those who wish to participate may also submit comments or questions in advance to Ms. Suzanne Lowery, Office of Public Information, United States Metric Board, The Magazine Building, 1815 North Lynn Street, Suite 600, Arlington, Virginia 22209.

Louis F. Polk,

*Chairman, United States Metric Board.*

[FR Doc. 79-29059 Filed 9-18-79; 8:45 am]

BILLING CODE 6820-94-M

## NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

### Opera-Musical Theater Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Opera-Musical Theater Advisory Panel to the National Council on the Arts will be held October 11 and 12, 1979, from 9:00 a.m. to 6:00 p.m., and October 13, 1979, from 9:00 a.m. to 5:30 p.m., in room 1422, Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C.

A portion of this meeting will be open to the public on October 11, 1979, from 9:00 a.m. to 10:00 a.m., and October 13, 1979, from 3:00 p.m. to 5:30 p.m. The topic of discussion will be the Fellowship Program for Composers/Librettists/Lyricists. The remaining sessions of this meeting on October 11, 1979, from 10:00 a.m. to 6:00 p.m., October 12, 1979, from 9:00 a.m. to 6:00 p.m., and October 13, 1979, from 9:00 a.m. to 3:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation of the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applications. In accordance with the determination of the Chairman published in the Federal Register March 17, 1977, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

*Director, Office of Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 79-29061 Filed 9-18-79; 8:45 am]

BILLING CODE 7537-01-M

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on October 4-6, 1979, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published on August 23, 1979 (44 FR 49528).

The agenda for the subject meeting will be as follows:

**Thursday, October 4, 1979**

**8:30 A.M.-12:30 P.M.: Executive Session (Open)**

The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

The Committee will discuss proposed ACRS comments and recommendations regarding the NRC regulatory process.

**1:30 P.M.-4:30 P.M.: Diablo Canyon Nuclear Power Station Units 1 and 2 (Open)**

The Committee will hear and discuss reports from representatives of NRC Staff, and the Pacific Gas and Electric Company and their consultants/contractors, as necessary, regarding proposed application of experience gained at the Three Mile Island Nuclear Station Unit 2 to the Diablo Canyon Nuclear Power Station.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

**4:30 P.M.-6:30 P.M.: Boiling Water Reactors/William H. Zimmer Nuclear Power Station Unit 1 (Open)**

The Committee will hear and discuss reports from representatives of the NRC Staff, and the Applicants and their consultants and contractors, as necessary, regarding proposed application of experience gained at the Three Mile Island Nuclear Station Unit 2 to BWR facilities of the Wm. H. Zimmer type.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

**6:30 P.M.-7:00 P.M.: Executive Session (Open)**

The Committee will hear and discuss the report of its Subcommittee regarding implementation of NRC Bulletins and Orders resulting from the accident which occurred at TMI-2. Members of the NRC Staff will participate as necessary.

**Friday, October 5, 1979**

**8:30 A.M.-12:30 P.M.: Executive Session (Open).**

The Committee will discuss proposed ACRS comments and recommendations regarding the NRC regulatory process.

**1:30 P.M.–3:30 P.M.: Westinghouse Nuclear Steam Supply Systems with Ice Condenser Containment/Sequoyah-McGuire Nuclear Plants (Open)**

The Committee will hear and discuss reports from the NRC Staff, and the applicants and their consultants and contractors regarding application of experience gained at TMI–2 to nuclear plants which make use of Westinghouse NSSS with ice-condenser containment of the Sequoyah and McGuire types.

Portions of this session will be closed as required to discuss Proprietary Information related to these projects.

**3:30 P.M.–4:30 P.M.: Meeting with NRC Staff (Open)**

The Committee will hear and discuss a report from members of the NRC Staff regarding the basis and criteria for identification of Licensee Event Reports as Abnormal Occurrence Reports.

**4:30 P.M.–7:00 P.M.: Executive Session (Open)**

The Committee will discuss its proposed Annual Report to the United States Congress regarding the NRC Safety Research Program. The Committee will also discuss proposed ACRS comments regarding the NRC Systematic Evaluation Program.

**Saturday, October 6, 1979**

**1:30 P.M.–4:30 P.M.: Executive Session (Open)**

The Committee will discuss its proposed annual report to the United States Congress regarding the NRC Safety Research Program.

The Committee will discuss proposed ACRS comments to the NRC regarding the status of action being taken to evaluate systems interactions at the Zion Nuclear Station and the Indian Point Nuclear Plant Unit 3.

The Committee will discuss its schedule for future activities.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on October 4, 1978 (44 FR 45926). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) P.L. 92–463 that it is necessary to close portions of this meeting as noted above to protect Proprietary Information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M. EDT.

Dated: September 17, 1979.

John C. Hoyle,
*Advisory Committee Management Officer.*

[FR Doc. 79–29251 Filed 9–18–79; 8:45 am]
BILLING CODE 7590–01–M

## Applications for Licenses To Export/Import; Nuclear Facilities or Materials

Pursuant to 10 CFR 110.41, "Public Notice of Receipt of an Application", please take notice that the Nuclear Regulatory Commission has received the following applications for export/import licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated this day September 10, 1979, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Joseph D. LaFleur, Jr.,
*Deputy Director for International Program and Assistant Director for International Cooperation, Office of International Programs.*

| Name of applicant, date of application, date received, application number | Material type | Material in kilograms | | End-use | Country of destination |
|---|---|---|---|---|---|
| | | Total element | Total isotope | | |
| Transnuclear, Inc., 08/10/79, 08/10/79, TSNM78017 | 1.0% enriched uranium | Add'l 850 | | Increase quantity authorized for import. | From France. |
| Transnuclear, Inc., 08/10/79, 08/13/79, ISNM79010 | 1.0% enriched uranium | 39,500 | 395 | Feed for UES/EU/41 | From France. |
| Transnuclear, Inc., 08/13/79, 08/15/79, XSNM01560 | 3.3% enriched uranium | 49,656 | 1,638.65 | Reloads for Fessenheim 2 and Bugey 3. | France. |
| Westinghouse Electric, 08/16/79, 08/20/79, ISNM79011 | 3.3% enriched uranium | 1,300 | | $UF_6$ for use in Westinghouse power reactors. | From France. |
| General Electric Co., 08/17/79, 08/21/79, XSNM01564 | 4.0% enriched uranium | 140,000 | 4,000 | Reloads for Kuo Sheng Units 1 and 2. | Taiwan. |
| Westinghouse Electric, 08/16/79, 08/24/79, XSNM01045 (Amend. 1) | 3.72% enriched uranium | Add'l 71,803.58. | Add'l 2,513.123. | To increase quantity of material authorized for export. | Spain. |
| Edlow International Co. 08/17/79, 08/27/79, XSNM01569 | 2.71% enriched uranium | 19,858.8 | 484.3 | Tarapur, reload | India. |
| Westinghouse Electric, 07/16/79, 08/24/79, XSNM00909 (Amend. 2) | 3.45% enriched uranium | Add'l 1,726 | Add'l 60.0 | Additional fuel for ANGRA I reactor. | Brazil. |
| Edlow International, 08/24/79, 08/27/79, XSNM01572 | 3.55% enriched uranium | 142,900 | 3,260 | Initial core and spare fuel assemblies for Forsmark III. | Sweden. |
| Transnuclear, Inc., 08/28/79, 08/28/79, XSNM01573 | 4.0% enriched uranium | 86,004.0 | 3,010.160 | Reload for ISAR (KKI) | West Germany. |
| Transnuclear, Inc., 08/28/79, 08/29/79, XSNM01481 (Amend. 1) | 3.55% enriched uranium | Add'l 1,287.0 | Add'l 45.7 | Increase quantity authorized for export. | West Germany. |
| Transnuclear, Inc., 08/28/79, 08/29/79, ISNM01698 (Amend. 3) | Enriched uranium | Add'l 243.65 and 920 gms. | Add'l 147.3 plutonium. | Increase quantity authorized for import. | From France. |
| Mitsui and Company, 08/29/79, 09/04/79, XSNM01581 | 3.95% enriched uranium | 75,172 | 2,059 | Reload fuel for Hamaoka Unit 2 | Japan. |
| Nuclear Metals, Inc., 08/14/79, 08/20/79, XU08468 | Depleted uranium | 100,000 | | For manufacture of counterweights and shields for radiotherapy units. | West Germany. |

[FR Doc. 79–29045 Filed 9–18–79; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 50-471 CP]

## Boston Edison Co. (Pilgrim Nuclear Generating Station, Unit 2) Order Cancelling Hearings

September 13, 1979.

The Nuclear Regulatory Commission Staff has moved that hearings presently scheduled to commence on October 1, 1979, in Plymouth, MA be deferred. The hearings were to consider the contentions of the parties to emergency planning.

The principle reason for the Staff's motion is that the Staff has not completed its review of emergency planning considerations at the site. In addition, matters are now before the Commission itself which may impact on the question of emergency planning.

Because of the proximity of the deadline for filing testimony and proceeding to hearings, and in order to provide time for the parties to respond to the Staff's motion, the Board agrees that additional time is necessary. Accordingly,

*It is ordered,* That the hearings presently scheduled to commence in Plymouth, MA on October 1, 1979 be cancelled subject to being reset at the earliest appropriate time.

For the Atomic Safety and Licensing Board.

Dated at Bethesda, Maryland, this 13th day of September, 1979.

Andrew C. Goodhope,
*Chairman.*

[FR Doc. 79-29035 Filed 9-18-79; 8:45 am]
BILLING CODE 7590-01-M

---

[Docket Nos. 50-373, 50-374]

## Commonwealth Edison Co. (LaSalle County Nuclear Power Station, Units 1 & 2); Request for Action

Notice is hereby given that by petition dated August 21, 1979, Jan. L. Koder, Esq., on behalf of Citizens Against Nuclear Power, et al., requested that an order be issued to Commonwealth Edison Company, to suspend and/or revoke the construction permit for LaSalle County Nuclear Power Station, Units 1 & 2 until confirmatory review of certain design changes are completed. This petition is being treated as a request for action under 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the petition within a reasonable time.

Copies of the petition are available for inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C., 20555 and in the local public document room at the Illinois Valley Community College, Rural Route 1, Oglesby, Illinois, 16348.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland this 12th day of September, 1979.

Edson G. Case,
*Acting Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 79-29034 Filed 9-18-79; 8:45 am]
BILLING CODE 7590-01-M

---

## Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, OH 804-4, is entitled "Audible-Alarm Dosimeters" and is intended for Division 8, "Occupational Health." It discusses the appropriate use of audible-alarm dosimeters and identifies certain conditions under which they should not be relied upon to perform their intended function. The guide also discusses performance specifications that the dosimeters should meet if they are used.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by January 11, 1980.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 11th day of September 1979.

For the Nuclear Regulatory Commission.

Karl R. Goller,
*Director, Division of Siting, Health and Safeguards Standards, Office of Standards Development.*

[FR Doc. 79-29043 Filed 9-18-79; 8:45 am]
BILLING CODE 7590-01-M

---

[Docket Nos. 50-250 and 50-251]

## Florida Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 49 and 41 to Facility Operating Licenses Nos. DPR-31 and DPR-41 issued to Florida Power and Light Company, for operation of the Turkey Point Nuclear Generating Station, Unit Nos. 3 and 4, located in Dade County, Florida. The amendments are effective as of the date of issuance.

The amendments to the operating licenses revised the Technical Specifications of Turkey Point, Unit Nos. 3 and 4 to approve operation with a

peaking factor of 2.10 assuming that no more than 22 percent of the steam generator tubes are plugged. In addition, Amendment No. 41 will permit continued operation of Turkey Point Unit No. 4 for six equivalent months of operation from June 1, 1979.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings are required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendment dated May 18, 1979 (*L-79-122* and *L-79-124*) as supplemented May 29 and June 8, 1979, (2) Amendment Nos. 49 and 41 to License Nos. DPR-31 and DPR-41, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 15th day of June, 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

*Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.*

[FR Doc. 79-29036 Filed 9-18-79; 8:45 am]

BILLING CODE 7590-01-M

---

[Docket No. 50-366]

## Georgia Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 11 to Facility Operating License No. NPF-5 issued to Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia, and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 2, (the facility) located in Appling County, Georgia. The amendment is effective as of the date of issuance.

The amendment consists of administrative changes to the Technical Specifications and involves (1) correction of the surveillance requirements for diesel generators to reflect the largest single load that a generator must be capable of rejecting, (2) correction of the system identification code for two seismic monitoring instruments and (3) changing from 5 to 30 days the requirement for channel calibration of seismic monitoring instruments following a seismic event.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an evironmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 19, 1979, (2) Amendment No. 11 to License No. NPF-5, and (3) the Commission's letter dated September 11, 1979. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Appling County Library, Parker Street, Baxley, Georgia 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 11th day of September, 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

*Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.*

[FR Doc. 79-29037 Filed 9-18-79; 8:45 am]

BILLING CODE 7590-01-M

---

[Docket No. 50-466 CP]

## Houston Lighting & Power Co. (Allens Creek Nuclear Generating Station, Unit 1); Supplemental Order; Special Prehearing Conference

September 13, 1979.

Supplementing our Order of August 6, 1979 (44 FR 47653, August 14, 1979), the Special Prehearing Conference will be held on October 15 and will continue, if necessary, through October 19, 1979 at the following location: Holiday Inn—Medical Center, 6701 South Main Street, Houston, Texas 77030. The sessions will begin at 9:30 am and will recess at 5:00 pm.

After considering various requests that this conference be held in other locations, we believe that, at least for the instant conference, the aforementioned accommodations will be more convenient. Consideration will be given to holding subsequent prehearing conferences and the hearing at another location. We see no necessity for holding evening sessions. Those petitioners filing contentions by September 14, 1979 evidenced that they desire to be admitted as parties, and thus are expected to appear during the daytime hours normally set aside for our proceedings.[1]

During the course of the special prehearing conference, the Board may have occasion to direct questions to the intervening parties or to the petitioners for leave to intervene regarding certain of their contentions. Other than responding to the Board's questions, the intervening parties and the petitioners will not be permitted to present oral argument in support of their unadmitted contentions. Our Rules of Practice do not provide for such oral argument, and the parties and petitioners have had ample time within which to prepare their contentions.[2]

We have been requested to order the Staff to meet informally with the intervening parties and with petitioners in order to clarify contentions.[3] The

---

[1] Accordingly, Tex Pirg's Motion To Set Future Hearing's Location dated August 27, 1979 is denied.

[2] Accordingly, we deny Mr. Doherty's Motion That Petitioners To Intervene Who Responded To The May And September 1978 Federal Register Notices Be Permitted To Support Unadmitted Contentions dated August 30, 1979.

[3] Mr. Doherty's Motion For Staff-Petitioner And Staff-Intervenor Informal Conferences To Clarify Contentions dated August 30, 1979.

Staff's Response of September 11, 1979, opposing that request, is well-taken and the request is denied. It is within the Staff's discretion to engage in informal conferences. Thus, as proposed by the Staff, those petitioners who file contentions by September 14, 1979 and who desire to informally confer with the Staff should comply with the two conditions set forth at page 2 of the Staff's Response—i.e. they should (1) agree on one or two spokesmen for the entire group and (2) jointly agree on a list of issues in which all are interested and on which they would all be willing to consolidate.

Limited appearance statements will not be received at this conference, but will be received at any subsequent prehearing conference and/or at the beginning of the hearing.

The public is invited to attend.

*It is so ordered.*

Dated at Bethesda, Maryland this 13th day of September, 1979.

For the Atomic Safety and Licensing Board.

Sheldon J. Wolfe,

*Chairman.*

[FR Doc. 79-29038 Filed 9-18-79; 8:45 am]

BILLING CODE 7590-01-M

---

[Dockets Nos. 50-277 and 50-278]

## Philadelphia Electric Co., et al.; Issuance of Amendments To Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 58 and 58 to Facility Operating License Nos. DPR-44 and DPR-56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3 (the facility) located in York County, Pennsylvania. The amendments are effective as of the date of issuance.

The amendments revise the Limiting Conditions for Operation for the Containment Atmosphere Dilution System by permitting the system to be inoperable for a period of up to 30 days rather than for the 7 days currently permitted.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendment dated September 11, 1979, (2) Amendment Nos. 58 and 58 to License Nos. DPR-44 and DPR-56, and (3) the Commission's letter dated September 13, 1979. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 13th day of September 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

*Chief, Operating Reactors Branch #3, Division of Operating Reactors.*

[FR Doc. 79-29039 Filed 9-18-79; 8:45 am]

BILLING CODE 7590-01-M

---

[Dockets Nos. 50-277 and 50-278]

## Philadelphia Electric Co., et al. (Peach Bottom Atomic power Station Units Nos. 2 and 3); Issuance of Amendments To Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 57 and 57 to Facility Operating License No. DPR-44 and DPR-56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company and Atlantic City Electric Company, which revised the Technical Specifications for operation of the Peach Bottom Atomic Power Station units Nos. 2 and 3, located in York County, Pennsylvania. The amendments are effective as of the date of issuance.

These amendments revise the Appendix B Technical Specifications by deleting the protection limits and associated monitoring requirements for suspended solids and pH because comparable limits and monitoring requirements are imposed by the National Pollutant Discharge Elimination System (NPDES) permit.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments were not required since the amendments do not include a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for this action and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated April 1973.

For further details with respect to this action see (1) the application for amendments dated May 23, 1978, (2) Amendments Nos. 57 and 57 to License Nos. DPR-44 and DPR-56, and (3) the Commission's related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 12th day of September 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

*Chief, Operating Reactors Branch #3, Division of Operating Reactors.*

[FR Doc. 79-29040 Filed 9-18-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

## Portland General Electric Co. et al. (Trojan Nuclear Power Plant); Director's Decision

By petition dated May 17, 1979, Nina Bell and Eugene Rosolie, on behalf of the Coalition for Safe Power (Coalition) requested that the Nuclear Regulatory Commission order shutdown of the Nuclear Power Plant. This petition was filed pursuant to 10 CFR 2.206 of the Commission's regulations.

The asserted bases for the request by the Coalition are that deficiencies exist with respect to fire protection and environmental qualification of electrical equipment.

The issues raised by the Coalition are generic in nature and directly related to those raised by the Union of Concerned Scientists in its November 1977 and May 1978 petitions. The Commission is now in the process of preparing a final Memorandum and Order in that proceeding.

The Coalition is correct in its statement that neither the NRC Staff Safety Evaluation Report dated October 7, 1974 nor its supplement dated November 21, 1975 addressed the environmental qualifications of electrical equipment. Notwithstanding this omission, these components were reviewed by the Staff and the Staff is not aware of the presence of any unqualified electrical equipment. However, the pressure transmitters, while qualified for their safety trip function, have not been found qualified for long term monitoring. Accordingly, the licensee has provided an acceptable alternate means to obtain the long term monitoring information in the form of pressure and differential pressure transmitters in the auxiliary building located outside containment. In addition, in response to IE Bulletin 79-01, PGE has reexamined the environmental qualification of all safety-related electrical equipment, and submitted this information in letters of June 12, 1979 and June 15, 1979 to Mr. R. H. Engelken, Director, NRC Region V. These submittals are in the process of being reviewed.

Based on the foregoing discussion, I have determined that no adequate basis exists at this time for ordering shutdown of the Trojan Nuclear Power Plant. The request of the Coalition for Safe Power for immediate action is hereby denied. Further consideration of the Coalition's petition will be held in abeyance pending the Commission's decision in the UCS proceeding.[1]

A copy of this determination will be placed in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and the local public document room for the Trojan Nuclear Power Plant located at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon 97051. A copy of this document will also be filed with the Secretary of the Commission for its review in accordance with 10 CFR 2.206(c) of the Commission's regulations.

In accordance with 10 CFR 2.206(c) of the Commission's Rules of Practice, this decision will constitute the final action of the Commission twenty (20) days after the date of issuance, unless the Commission on its own motion institutes the review of this decision within that time.

Dated at Bethesda, Maryland this 10th day of September.

Harold R. Denton,

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 79-29041 Filed 9-18-79; 8:45 am]

BILLING CODE 7590-01-M

## Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 8.20, Revision 1, "Applications of Bioassay for I-125 and I-131," provides criteria acceptable to the NRC staff for complying with Commission regulations with regard to the development and implementation of a bioassay program for licensees handling or processing radioactive iodines 125 and 131. This guide was revised as a result of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office (GPO) price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on subscription service and current GPO prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 12th day of September 1979.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

*Director, Office of Standards Development.*

[FR Doc. 79-29044 Filed 9-18-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-271]

## Vermont Yankee Nuclear Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 54 to Facility Operating License No. DPR-28, issued to Vermont Yankee Nuclear Power Corporation which revised Technical Specifications for operation of the Vermont Yankee Nuclear Power Corporation which revised Technical Specifications for operation on the Vermont Yankee Nuclear Power Station (the facility) located near Vernon, Vermont. The amendment is effective 90 days after issuance to provide time to train the additional fire brigade members.

The amendment modifies the Technical Specifications to require a five man fire brigade. The Safety Evaluation relating to this change was issued on January 13, 1978 along with Amendment No. 43 to License No. DPR-28.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate

[1] This is in accordance with the Secretary of the Commission's July 31, 1979 memorandum to the Director which stated: "The Commission requests that you determine if this petition contains any information indicating that immediate action is needed at the Trojan plant, as distinguished from generic actions which may result from the Commission's final determination in the UCS proceeding. The petitioner should be informed of the results of this inquiry. If it is found that no immediate action is warranted, petitioner should be informed that further consideration of its petition will be held in abeyance pending the Commission's decision in the UCS proceeding."

findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated August 10, 1979, (2) Amendment No. 54 to License No. DPR-28, and (3) the Commission's letter to the licensee dated September 12, 1979. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 12th day of September 1979.

For the Nuclear Regulatory Commission.

**Thomas A. Ippolito,**

*Chief, Operating Reactors Branch #3, Division of Operating Reactors.*

[FR Doc. 79-29042 Filed 9-18-79; 8:45 am]

BILLING CODE 7590-01-M

## DEPARTMENT OF STATE

### Office of the Secretary

**[Public Notice CM-81226]**

### Ocean Affairs Advisory Committee; Partially Closed Meeting

The Fisheries and Marine Science and Technology Sections of the Ocean Affairs Advisory Committee will meet at 9:15 a.m., on Friday, November 16, 1979 in Room 1205 of the Department of State, 2201 C St., NW., Washington, D.C.

At this meeting, officers responsible for Fisheries and Marine Science and Technology Affairs in the Department of State will discuss key issues and problems concerning current domestic and international developments. This session will be open to the public. The public will be admitted to the session to the limits of seating capacity and will be given the opportunity to participate in discussions according to the instructions of the Chairperson.

The Ocean Affairs Advisory Committee will also meet on Wednesday and Thursday, November 14–15, 1979 in Room 1205, at the Department of State, 2201 C St., NW., in sessions which will not be open to the public. These sessions will be devoted to the discussion of classified material under 5 U.S.C. 552b(c) 1 and 5 U.S.C. 552b(c)(9)(B). The disclosure of classified material and revelation of considerations which go into policy development would substantially undermine and frustrate the U.S. position in future negotiations. The purposes of these discussions will be to elicit views concerning the further development of fisheries resource policies, marine scientific research in the oceans and to review ongoing negotiations. This portion of the meeting will include classified briefings and examination and discussion of classified documents pursuant to Executive Order 12065.

Requests for further information on the meetings should be directed to Benoit Brookens, Executive Secretary, OES/O, Room 5801, Department of State, telephone number (202) 632-2798.

**Benoit Brookens,**

*Executive Secretary, Ocean Affairs Advisory Committee.*

[FR Doc. 79-29062 Filed 9-18-79; 8:45 am]

BILLING CODE 4710-01-M

## DEPARTMENT OF THE TREASURY

### National Consumer Cooperative Bank, Meeting of the Board of Directors

In anticipation of confirmation by the Senate, an organizational meeting of the Board of Directors of the National Consumer Cooperative Bank is scheduled for Friday, September 21, 1979. The meeting will be held in the Cash Room (2100 Corridor), Main Treasury Building, 15th Street and Pennsylvania Avenue, NW., Washington D.C., from 10:00 a.m. to 5:00 p.m.

The tentative agenda follows:

1. Approval of initial By-Laws.
2. Election of Chairman and Vice Chairman.
3. Designation of acting Bank officers.
4. Delegations of authority to acting Bank officers.
5. Discussion of essential administrative issues.
6. Discussion and approval of interim administrative policies.
7. Discussion of Implementation Schedule and status.
8. Discusssion of Presidential qualifications.
9. Appointment of Presidential Search Committee and discussion of other Board committees.
10. Scheduling of dates, places and agenda for future meetings.

This meeting will not be held if the Board of Directors is not confirmed by the Senate prior to September 21, 1979.

This meeting is open to public observation. For more information, contact Pruett Pemberton at (202) 370-0279.

Done at Washington, D.C., this 17th day of September, 1979.

Roger C. Altman,

*Assistant Secretary of the Treasury, Domestic Finance.*

[FR Doc. 79-29205 Filed 9-18-79; 8:45 am]

BILLING CODE 4810-25-M

## VETERANS ADMINISTRATION

### Clinical Support Wing and Psychiatric Outpatient Building, VAMC, Denver, Colo.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of a Clinical Support Wing and a Psychiatric Outpatient Building at the Veterans Administration Medical Center (VAMC), Denver, Colorado.

The project proposes construction of an addition to the main hospital building (building no. 1) of approximately 126,000–127,000 gross square feet situated on 6–7 floor levels. The clinical support wing would be located at the south central portion of the existing building.

The psychiatric outpatient building is proposed to be located in the southeast quadrant of the Veterans Administration site or, as alternatives, could be located in a west or northeast location where currently buildings nos. 2, 3 and 4 exist. The outpatient building is estimated to be approximately 13,000–20,000 gross square feet in area.

In addition, the scope of the project includes upgrading patient privacy and correcting fire and safety deficiencies. Air conditioning of both the existing main hospital and the new clinical support wing is included in this project. Estimated construction costs are between 40–45 million dollars.

Development of the project will have impacts on the human and natural environment affecting open space, soil stability, air quality and noise levels.

The mitigation of the project impacts on the environment include: implementation of erosion and sedimentation controls; onsite noise abatement measures; and air quality

controls. Short term impacts of dust and fumes associated with the project construction will be minimized.

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Section 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: September 13, 1979.

By direction of the Administrator:

Maursy S. Crallē, Jr.,

*Assistant Deputy Administrator for Financial Management and Construction.*

[FR Doc. 79-28990 Filed 9-18-79; 8:45 am]

BILLING CODE 8320-01-M

## Replacement Medical Center, Baltimore, Md.; Availability of Final Environmental Impact Statement

Notice is hereby given that a document entitled "Final Environmental Impact Statement, for the 400-Bed Veterans Administration Replacement Medical Center, Baltimore, Maryland, dated September 1979, has been prepared as required by section 102(2)(C) of the National Environmental Policy Act of 1969.

The preferred location of the medical center is a 2.8 acre block in downtown Baltimore near the University of Maryland Hospital. The Medical Center will have 400 hospital beds and the necessary outpatient and support functions. The facility will replace the outmoded Veterans Administration Medical Center at Fort Howard, Maryland.

The Final Statement responds to comments received on the Draft Statement which was circulated for public review in March 1979. The Statement also summarizes comments generated by a Public Hearing conducted on June 30, 1979, as a result of public interest. The Final Statement together with the Draft Statement comprises the Environmental Impact Statement.

The document is being placed for public examination in the Veterans Administration office in Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202-389-2526). Single copies of the draft or final statement are available by request to the above office.

Dated: September 13, 1979.

By direction of the Administrator:

Maury S. Cralle, Jr.,

*Assistant Deputy Administrator for Financial Management and Construction.*

[FR Doc. 79-28989 Filed 9-18-79; 8:45 am]

BILLING CODE 8320-01-M

## INTERSTATE COMMERCE COMMISSION

### Agricultural Cooperatives; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

September 14, 1979.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: Agricultural Services Association, Inc.,

Principal Mailing Address (Street No., City, State, and Zip Code): P.O. Box 119, Bells TN 38006.

Where Are Records of Your Motor Transportation Maintained (Street No., City, State and Zip Code): A.S.A. Office—Transportation, High St., Bells, TN 38006.

Person To Whom Inquiries and Correspondence Should be Addressed (Name and Mailing Address): J. P. McCormick/Vice President, A.S.A. Transportation, P.O. Box 119, Bells, TN 38006.

(2) Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: Big Lake Transport, Inc.

Principal Mailing Address (Street No., City, State, and Zip Code): P.O. Box 98, Charleston, MO 63834.

Where are Records of Your Motor Transportation Maintained (Street No., City, State and Zip Code): Beasley Park Drive, Charleston, MO 63834.

Person To Whom Inquiries and Correspondence Should Be Addressed (Name and Mailing Address): Francis M. (Jim) Hall, P.O. Box 98, Beasley Park Dr., Charleston, MO 63834.

(3) Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: Fur Breeders Agricultural Cooperative.

Principal Mailing Address (Street No., city, State, and Zip Code): P.O. Box 295, Midvale, UT 84047.

Where are Records of Your Motor Transportation Maintained (Street No., city, State and Zip Code): P.O. Box 295, 8400 South 600 West, Midvale, UT 84047.

Person To Whom Inquiries and Correspondence Should Be addressed (Name and Mailing Address): Irene Warr Atty. at Law, 430 Judge Bldg., Salt Lake City, UT 84111.

(4) Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: United Dairymen of Arizona.

Principal Mailing Address (Street No., City, State, and Zip code): P.O. Box 26877, Tempe, AZ 85282.

Where are Records of Your Motor Transportation Maintained (Street No., City, State and Zip Code): 2036 S. Hardy Dr., Tempe, AZ 85282.

Person To Whom Inquiries and Correspondence Should be addressed (Name and Mailing Address): Robert M. Girard, P.O. Box 26877, Tempe, AZ 85282.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 79-28868 Filed 9-18-79; 8:45 am]

BILLING CODE 7035-01-M

[AB 18 (SDM) [1]]

### Chessie System: Amended System Diagram Map

Notice is hereby given that, purusant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Chessie System and its subsidiaries, has filed with the

[1] AB 18 (SDM), The Chesapeake and Ohio Railway Company, AB 19 (SDM), The Baltimore and Ohio Railway Company and AB 69 (SDM), The Western Maryland Railway Company.

Commission its amended color-coded system diagram map in docket No. AB 18 (SDM). The Commission on July 3, 1979, received a certificate of publication as required by said regulations which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the office of the Commission, Section of Dockets, by requesting docket No. AB 18 (SDM).

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 79-28978 Filed 9-18-79; 8:45 am]

BILLING CODE 7035-01-M

[AB 7 (SDM)]

## Chicago, Milwaukee, St. Paul and Pacific Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.23, that the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, has filed with the Commission its amended color-coded system diagram map in docket No. AB 7 (SDM). The Commission on August 19, 1979, received a certificate of publication as required by said regulations which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the office of the Commission, Section of Dockets, by requesting docket No. AB 7 (SDM).

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 79-28969 Filed 9-18-79; 8:45 am]

BILLING CODE 7035-01-M

[AB 46 (SDM)]

## Chicago, Rock Island and Pacific Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Chicago, Rock Island and Pacific Railroad Company, has filed with the Commission its amended color-coded system diagram map in docket No. AB 46 (SDM). The Commission on February 2, 1979, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the office of the Commission, Section of Dockets, by requesting docket No. AB 46 (SDM).

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 79-28977 Filed 9-18-79; 8:45 am]

BILLING CODE 7035-01-M

[AB 167 (SDM)]

## Consolidated Rail Corp.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Consolidated Rail Corporation, has filed with the Commission its amended color-coded system diagram map in docket No. AB 167 (SDM). The Commission on March 19, 1979, received a certificate of publication as required by said regulations which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the office of the Commission, Section of Dockets, by requesting docket No. AB 167 (SDM).

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 79-28976 Filed 9-18-79; 8:45 am]

BILLING CODE 7035-01-M

[AB 70 (SDM)]

## Florida East Coast Railway Co.; Amended System Diagram Map

Notice is hereby given that, purusant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Florida East Coast Railway Company, has filed with the Commission its amended color-coded system diagram map in docket No. AB 70 (SDM). The Commission on October 9, 1978, received a certificate of publication as required by said regulations which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the office of the Commission, Section of Dockets, by requesting docket No. AB 70 (SDM).

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 79-28975 Filed 9-18-79; 8:45 am]

BILLING CODE 7035-01-M

[AB 43 (SDM)]

## Illinois Central Gulf Railroad Co.; Amended System Diagram Map

Notice is hereby given that pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Illinois Central Gulf Railroad Company, has filed with the Commission its amended color-coded system diagram map in docket No. AB 43 (SDM). The Commission on August 2, 1979, received a certificate of publication as required by said regulations which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the office of the Commission, Section of Dockets, by requesting docket No. AB 43 (SDM).

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 79-28972 Filed 9-18-79; 8:45 am]

BILLING CODE 7035-01-M

[AB 84 (SDM)]

## Illinois Terminal Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Illinois Terminal Railroad Company, has filed with the Commission its amended color-coded system diagram map in docket No. AB 84 (SDM). The Commission on May 21, 1979, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each

state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the office of the Commission, Section of Dockets, by requesting docket No. AB 84 (SDM).

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 79-28970 Filed 9-18-79; 8:45 am]

BILLING CODE 7035-01-M

---

[AB 83 (SDM)]

## Maine Central Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that on March 22, 1979, the Maine Central Railroad Company filed with the Commission its amended color-coded system diagram map in docket No. AB 83 (SDM).

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the office of the Commission, Section of Dockets, by requesting docket No. AB 83 (SDM).

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 79-28974 Filed 9-18-79; 8:45 am]

BILLING CODE 7035-01-M

---

[AB 62 (SDM)]

## Marinette, Tomahawk & Western Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Marinette, Tomahawk & Western Railroad Company, has filed with the Commission its amended color-coded system diagram map in docket No. AB 62 (SDM). The Commission on July 17, 1979, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the office of the Commission, Section of Dockets, by requesting docket No. AB 62 (SDM).

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 79-28971 Filed 9-18-79; 8:45 am]

BILLING CODE 7035-01-M

---

[AB 102 (SDM)]

## Missouri-Kansas-Texas Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Missouri-Kansas-Texas Railroad Company, has filed with the Commission its amended color-coded system diagram map in docket No. AB 102 (SDM). The Commission on March 30, 1979, received a certificate of publication as required by said regulations which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the office of the Commission, Section of Dockets, by requesting docket No. AB 102 (SDM).

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 79-28973 Filed 9-18-79; 8:45 am]

BILLING CODE 7035-01-M

---

[Notice No. 170]

## Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representatives, if any, and the protestant must certify that such service has been made. The protests must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

By the Commission

Agatha L. Mergenovich,

*Secretary.*

### Motor Carriers of Property

MC 121473 (Sub-2TA), filed April 26, 1979, published in the Federal Register June 13, 1979 and republished this issue. Applicant: VENCO TRUCKING, INC., R.D. #3, Emlenton, PA 16373. Representative: Guy Shoup (same address). By supplemental decision entered September 11, 1979, the Motor Carrier Board granted applicant temporary authority to transport petroleum products in packages and empty containers, over irregular routes, between Rouseville and Reno, PA, on the one hand, and, on the other, points in Ohio and New York. Supporting Shipper: Pennzoil Company, P.O. Box 808, Oil City, PA 16301.

Any interested person may file a petition for reconsideration within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto. Purpose of this republication is to show radial authority rather than from and to authority as originally published.

[FR Doc. 79-28979 Filed 9-18-79; 8:45 am]

BILLING CODE 7035-01-M

---

## Operating Rights Application Directly Related to Finance Proceedings

The following operating rights application(s) are filed in connection with pending finance applications under Section 11343 (formerly Section 5(2)) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications

under Section 10926 (formerly Section 212(b)) of the Interstate Commerce Act.

On applications filed before March 1, 1979, an original and one copy of *protests* to the granting of authorities must be filed with the Commission on or before October 19, 1979. Such protests shall conform with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities.

Applications filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *General Rules of Practice* also but are subject to petitions to intervene either with or without leave. An original and one copy of the petition must be filed with the Commission by October 19, 1979. A petition for intervention must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points. Persons unable to intervene under Rule 247(k) may file a petition for leave to intervent under Rule 247(1) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Verified statements in opposition should not be tendered at this time. A copy of the protest or petition to intervene shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 109397 (Sub-454F) (correction). Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: Anthony N. Jacobs, P.O. Box 113, Joplin, MO 64801, republished in the July 16, 1979, issue of the Federal Register, at page 41408. The following errors appeared in the republication: In Item 27, the state of Indiana is missing; In Item 34 Iowa appears as Louisiana with Louisiana shown twice; In Item 59 North Dakota is shown as North Carolina with North Carolina appearing twice.

Note.—This matter is directly related to MC-F-13956F. The purpose of this correction is to indicate that the previous Correction that appeared in the September 7, 1979, issue of the Federal Register, at page 52414, inadvertently published the Correction with the wrong Sub-No. (MC 109397 Sub-No. 434F). The Correct number is MC 109397 (Sub-No. 454F).

By the Commission.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 79-28980 Filed 9-18-79; 8:45 am]

BILLING CODE 7035-01-M

# Sunshine Act Meetings

Federal Register
Vol. 44, No. 183
Wednesday, September 19, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## CONTENTS



1

[M-244, Amdt. 4, Sept. 14, 1979]

CIVIL AERONAUTICS BOARD.

Deletion of item from the September 13, 1979, meeting agenda.

TIME AND DATE: 9:30 a.m., September 13, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: Dockets 36121, 35372, 35970, 36281, 36279, 35504, 36291, 36287, 36260, 36289, 36147, 36285, 33524, and 36284: Salt Lake City Show-Cause Proceeding (Memo 8412-J, BDA).

STATUS: A-12—open; 13-closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 7 was deleted from the September 13, 1979 calendar because issues have arisen relative to certain markets involved in this proceeding and the staff needs additional time to consider the matter. Accordingly, the following Members have voted that agency business requires the deletion of item 7 and that no earlier announcement of this deletion was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1818-79 Filed 9-17-79; 3:02 pm]
BILLING CODE 6320-01-M

2

[M-246, Amdt. 1, Sept. 14, 1979]

CIVIL AERONAUTICS BOARD.

Addition of items to the September 20, 1979 meeting.

TIME AND DATE: 9:30 a.m., September 20, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1a. "What Load Factor Standard Should the Board Use in Essential Air Service Determinations for Markets Served by Small Aircraft?" (OEA) (For information memo).

29a. California-Arizona Low-Fare Route Proceeding, Docket 33237 (OGC).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Member Bailey believes Board action on Item 1a may be necessary and therefore would like it discussed in the September 20, 1979 Board Meeting with the staff. Member Bailey had not had an opportunity to review the memo at the time the September 20 agenda was prepared. Item 29a is being added because it has a target date of September 21, 1979 and the next Board Meeting will not be until after the September 21 target date. Also the staff was unable to complete its recommendation in time to be posted on the initial agenda. Accordingly, the following Members have voted that agency business requires the addition of Items 1a and 29a to the September 20, 1979 agenda and that no earlier announcement of these additions was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1819-79 9-17-79; 3:02 pm]
BILLING CODE 6320-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., September 28, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1813-M 9-17-79; 11:27 am]
BILLING CODE 6351-01-M

4

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Tuesday, September 18, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special open Commission meeting.

CHANGES IN THE MEETING: The following items have been deleted:

*Agenda, Item No., and Subject*

Common Carrier—1—Title: AT&T Rate Base Treatment of Claimed Amounts for Investment in Affiliated Companies. (Docket No. 21244). Summary: As an outgrowth of Docket No. 19129, the last major AT&T rate investigation, the FCC issued a Notice of Proposed Rulemaking to examine AT&T's treatment for ratemaking purposes of its investment in the two affiliated companies, Bell Telephone Laboratories and 195 Broadway Corp. The FCC will consider whether AT&T's method of recovering a return on this investment is fair to ratepayers.

Common Carrier—2—Title: Final Decision and Order in Western Union Telegraph Company, Docket No. 20847. Summary: In 1976, Western Union increased its rates for its Series 1000 tariffs. These tariffs offer the public full-time, dedicated, low speed private line telegraph service. AT&T and the Department of Defense challenged these revisions and an investigation was held on their lawfulness. The Administrative Law Judge (ALJ) issued an Initial Decision, released July 18, 1978, concluding that the rates were not unlawful. Exceptions were filed to the ALJ's decision. The general issues to be considered here are whether Western Union met its initial burden of proof showing its revisions to be just and reasonable and whether the cost studies submitted by Western Union were so deficient as to require reversal of the ALJ's findings.

Common Carrier—3—Title: South Central Bell Telephone Company. Summary: The FCC is considering whether to designate for hearing the two applications of South Central Bell Telephone Company for construction permits to add improved mobile telephone service (IMTS) to Domestic Public Land Mobile Radio

Telephone Service facilities in New Orleans and Houma, Louisiana. Any such hearing would examine whether South Central Bell has demonstrated public need for the proposed facilities and whether South Central Bell wrongfully refused to provide selector level interconnection to a competing carrier (anticompetitive practices issue and Communications Act Section 201 issue).

Issued: September 14, 1979.

[S-1812-79 9-17-79; 11:10 am]

BILLING CODE 6712-01-M

5

**FEDERAL DEPOSIT INSURANCE CORPORATION.**

Change in Time of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that the closed meeting of the Corporation's Board of Directors scheduled for 2:30 p.m. on Monday, September 17, 1979, will be held instead at 1:30 p.m. on Monday, September 17, 1979, in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C. No earlier notice of the change in the time of this meeting was practicable.

Dated: September 14, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

*Executive Secretary.*

[S-1814-79 Filed 9-17-79; 11:30 am]

BILLING CODE 6714-01-M

6

**FEDERAL DEPOSIT INSURANCE CORPORATION.**

**TIME AND DATE:** 2 p.m., September 24, 1979.

**PLACE:** Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

Disposition of minutes of previous meetings.

Memorandum and resolution proposing the publication of a semiannual agenda of proposed regulations and existing regulations under review.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C.

**CONTACT PERSON FOR MORE INFORMTION:** Mr. Hoyle L. Robinson, Executive Secretary, (202) 389-4425.

[S-1822-79 Filed 9-17-79; 3:35 pm]

BILLING CODE 6714-01-M

7

**FEDERAL DEPOSIT INSURANCE CORPORATION.**

**TIME AND DATE:** 2:30 p.m., September 24, 1979.

**PLACE:** Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

Applications for Federal deposit insurance:

Lee Savings Bank, an operating noninsured mutual savings bank, located in Lee, Massachusetts, for Federal deposit insurance.

Global Union Bank, a proposed new bank, to be located at Wall Street Plaza, New York (Manhattan), New York, for Federal deposit insurance.

Williston Basin State Bank, a proposed new bank, to be located at 22nd Street and Second Avenue West, Williston, North Dakota, for Federal deposit insurance.

Applications for consent to establish branches:

American State Bank, Portland, Oregon, for consent to establish a branch at 204 S. W. Yamhill Street, Portland, Oregon.

Banco Central y Economias, San Juan (Hato Rey), Puerto Rico, for consent to establish a branch at Roberto Clemente and Benicio Sanchez Castano Avenues, Carolia, Puerto Rico.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,053-NR. United States National Bank, San Diego, Calif.

Memorandum re: Toney Brothers Bank, Doerun, Ga.

Memorandum and resolution re: Franklin National Bank, New York, N.Y.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personal actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempted from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Hoyle L. Robinson, Executive Secretary (202) 389-4425.

[S-1823-79 Filed 9-17-79; 3:35 pm]

BILLING CODE 6714-01-M

8

**FEDERAL LABOR RELATIONS AUTHORITY.**

**TIME AND DATE:** 9:30 a.m., Monday, September 24, 1979.

**PLACE:** Department of Labor Building, 200 Constitution Avenue NW., Room C5515, Seminar Room 6, Washington, D.C.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

1. Status of the FLRA fiscal year 1980 Budget.

2. Report by the Members on the Status of the FLRA's Role in Panama Canal Labor Relations.

**CONTACT PERSON FOR MORE INFORMATION:** Harold D. Kessler, Executive Director, telephone (202) 632-3920.

Washington, D.C., September 17, 1979.

[S-1817-79 Filed 9-17-79; 3:02 pm]

BILLING CODE 6325-19-M

9

**FEDERAL MARITIME COMMISSION.**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** September 14, 1979, 44 FR 53605.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** 10 a.m., September 19, 1979.

**CHANGES IN THE MEETING:**

Addition of the following items to the open session:

12. Agreement No. 10361 between Farrell Lines and Compagnie Maritime Zairoise and Agreement No. 10362 between Delta Steamship Lines, Inc. and Campagnie Maritime Zairoise establishing agency/husbanding agreements.

13. Docket No. 77-7: Agreement Nos. 9929-2, 9929-3 and 9929-4 and Agreement Nos. 10266 and 10266-1. Petition for Reconsideration.

Addition of the following item to the closed session:

2. Docket No. 79-10: Rates of Far Eastern Shipping Company, Draft Order.

[S-1811-79 Filed 9-17-79; 10:26 am]

BILLING CODE 6730-01-M

10

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

September 7, 1979.

TIME AND DATE: 10 a.m., September 14, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Consolidation Coal Company, PITT 76–123–P, IBMA 77–6.
2. Southern Ohio Coal Company, VINC 79–98 (Interlocutory Review).

CONTACT PERSON FOR MORE INFO: Jean Ellen, 202–653–5632.

[S–1616–79 9–17–79; 3:02 pm]

BILLING CODE 6820–12–M

---

11

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 10:40 a.m., Friday, September 14, 1979

PLACE: Room 4225, Interstate Commerce Commission Building, 12th and Constitution Avenue, N.W., Washington, D.C. 20423

STATUS: Notice of Closed Conference.

A majority of the Commission voted to hold this conference on no advance notice and in closed session.

A majority of the Commission (Commissioner Clapp absent and not participating) voted to hold this conference on no advance notice and in closed session because it was likely to disclose trade secrets or commercial information obtained from a person and privileged or confidential, and likely to disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, within the meaning of 5 U.S.C. 552b(c)(4) and 552b(c)(9)(B) and 49 C.F.R. 1012.7(d)(4) and 1012.7(d)(9). The Commission's General Counsel has issued his certificate accordingly.

MATTER DISCUSSED: Directed Rail Service.

The following Commission staff members were in attendance: Director Thomas, Director Fitzwater, Director Morton, Director Burns, General Counsel Evans, Managing Director Quinlan, Dick Schiefelbein, Joseph Hurley, Henri Rush, John Michael, Jack O'Brien, Robert Steiner, Edward Guthrie, Richard Felder, David Konschnik, Jeff Stone, Bruce Stram, Emily DeRoeco, Larry Lesser, Dan King, and Richard Lewis.

Ken Schwartz, a staff member of the Office of Management and Budget also was present.

CONTACT PERSON FOR MORE INFORMATION: Douglas Baldwin, Director, Office of Communications, telephone: 202–275–7252.

September 14, 1979.

[S–1615–79 Filed 9–17–79; 11:52 am]

BILLING CODE 7035–01–M

---

12

METRIC BOARD.

TIME AND DATE: 2 p.m., October 18, 1979; 8:30 a.m., October 19, 1979.

PLACE: The meeting on October 18 and 19 will be held in the Greenfield Room of the Dearborn Inn, Oakwood Boulevard, Dearborn, Michigan 48123.

STATUS: Open to the public except from 3:45 p.m. to 5:30 p.m. on October 18 during which time the Board will meet to discuss internal personnel matters. This portion of the meeting is closed under exemption section (c)(2) of 5 U.S.C. 552b.

MATTERS TO BE CONSIDERED:

*Thursday, October 18*

Approval of agenda.
Review/Approval of Minutes, July and August, 1979.
Update on State Program Activity.
Presentation on National Conference on Weights and Measures Resolutions.

*Friday, October 19*

Reports
Detailed report and discussion on the Interagency Committee for Metric Policy.
Presentation of fiscal year 1980 Operating Plan.
Discussion of draft USMB report to the Congress and the President on the need for an effective structural mechanism to convert customary units to metric units in laws and regulations at all levels of government.
Staff report on recommended topics for public meetings.
Review and approval of guidelines for conversion planning.
Agenda items for future Board meetings.

SUPPLEMENTARY INFORMATION: Notice of a public forum to be held by the U.S. Metric Board on October 18, 1979 which will provide individuals and groups the opportunity to comment on metric conversion appears elsewhere in this issue.

CONTACT PERSON FOR MORE INFORMATION: Joan Phillips, 703–235–1933.

Louis F. Polk,

*Chairman, United States Metric Board.*

[S–1805–79 Filed 9–14–79; 2:45 am]

BILLING CODE 6820–94–M

---

13

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 53348, September 13, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Thursday, September 20, 1979, 9 a.m. [NM–79–31].

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Recommendations to Department of Transportation, Research and Special Programs Administration, and Federal Railroad Administration re railroad accident and puncture of hazardous materials tank cars, near Crestview, Florida, April 8, 1979.
2. Highway Accident Report: Cross Median Multiple Vehicle Collision and Fire, State Route 2, near Cleveland, Ohio, May 6, 1979.
3. Aircraft Accident Report: Champion Home Builders Company, Gates Learjet 25B, N99HG, Sanford, North Carolina, September 8, 1977.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

September 17, 1979.

[S–1824–79 Filed 9–17–79; 3:55 pm]

BILLING CODE 4910–58–M

---

14

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Friday, September 21, 1979. [NM–79–32].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED: A majority of the Board has determined by recorded vote that the business of the Board requires that the following items, previously scheduled for the meeting of September 20, 1979, be discussed on this date and that no earlier announcement was possible:

1. Marine Accident Report: Tankship M/V RIBAFORADA collision with Barge MB–5, Three Wharves, and Cargo Ship M/V TIARET, near New Orleans, Louisiana, December 4, 1977.
2. Safety Report on the Progress Toward Improvements in Marine Steering.
3. Discussion: Board Policy on allowing Members to vote on agenda items after Board meetings.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202–472–6022.

September 17, 1979.

[S–1825–79 Filed 9–17–79; 3:55 pm]

BILLING CODE 4910–58–M

15

**PAROLE COMMISSION.**

National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

**TIME AND DATE:** 9:30 a.m., Tuesday, September 11, 1979.

**PLACE:** Room 828, 320 First Street NW., Washington, D.C. 20537.

**STATUS:** Closed pursuant to a vote taken at the beginning of the meeting.

**MATTERS TO BE CONSIDERED:** Referrals from Regional Commissioners of approximately 15 cases in which inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

**CONTACT PERSON FOR MORE INFORMATION:** A. Ronald Peterson, Analyst: (202) 724-3094.

[S-1821-79 Filed 7-17-79; 3:35 pm]

BILLING CODE 4410-01-M

---

16

**SECURITIES AND EXCHANGE COMMISSION:**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** [44 FR 53348, September 13, 1979.]

**STATUS:** Closed meetings.

**PLACE:** Room 825, 500 North Capitol Street, Washington, D.C.

**DATE PREVIOUSLY ANNOUNCED:** Monday, September 10, 1979.

**CHANGES IN THE MEETING:** Additional meetings/additional item.

The following additional closed meetings will be held on Monday, September 17, 1979, at 1:30 p.m., Tuesday, September 18, 1979, at 9:30 a.m., and Friday, September 21, 1979, at 9:30 a.m.

The subject matter of the closed meetings will be:

Legislative and regulatory matters bearing enforcement implications.

The following additional item will be considered at a closed meeting scheduled for Wednesday, September 19, 1979, at 10 a.m.

Regulatory matter bearing enforcement implication.

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: George Yearsich (202) 272-2178.

September 17, 1979.

[S-1820-79 Filed 9-17-79; 3:35 p.m.]

BILLING CODE 8010-01-M

Federal Register

Wednesday
September 19, 1979

Part II

# Environmental Protection Agency

Pesticide Programs; Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing EPN

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 1316-1; OPP-30000/33]

## Pesticide Programs; Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing EPN.

**AGENCY:** Office of Pesticide Programs, Environmental Protection Agency (EPA).

**ACTION:** Notice of rebuttable presumption.

**SUMMARY:** O-Ethyl O-(p-nitrophenyl) phenylphosphonothioate (EPN) has been found to exceed certain risk criteria set forth on 40 CFR 162.11. This notice requests registrants and other interested persons to submit rebuttals and other information on the presumption and to submit any other data on the risks and benefits of this pesticide chemical. This notice is the first of several which will give public notification of the Agency's progress in reviewing this chemical.

**DATES:** Rebuttal evidence and other information must be received on or before October 29, 1979.

**ADDRESS MATERIAL TO:** Document Control Officer, Chemical Information Division (TS-793), Office of Toxic Substances, EPA, Rm. 447, East Tower, 401 M St. SW, Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:** Patrick Miller, Special Pesticide Review Division (TS-791), Office of Pesticide Programs, Rm. 720, Crystal Mall #2, EPA (703)/557-7973, ext. 24.

**SUPPLEMENTARY INFORMATION:** The Deputy Assistant Administrator, Office of Pesticide Programs, EPA, has determined that a rebuttable presumption exists against registration and continued registration of all pesticide products containing EPN.[1]

Issuance of this RPAR means that potential adverse effects associated with the use of EPN have been identified and will be examined further to determine if they do exist and, if so, whether they are unreasonable.

### I. Regulatory Provisions

A. *General.* Title 40, Part 162.11, of the Code of Federal Regulations for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136 *et seq.*), provides that a rebuttable presumption against registration shall arise if the Agency determines that a pesticide meets or exceeds any of the risk criteria relating to acute and chronic toxic effects set forth in § 162.11(a)(3). If it is determined that such a rebuttable presumption has arisen, the regulations require that the registrant be notified by certified mail and afforded an opportunity to submit evidence in rebuttal of the presumption. In addition, the Agency has determined that the public should also be given notice of the bases for the presumption to provide an opportunity for comment and to solicit additional information relevant to the presumption.

A notice of rebuttable presumption against registration is issued when the evidence related to risk meets the criteria set forth in § 162.11(a)(3). *It is emphasized that a notice of rebuttable presumption against registration and continued registration of a pesticide is not a notice of intent to cancel the registration of a pesticide, and may or may not lead to cancellation.* The notice of intent to cancel is issued only after the risks and benefits of a pesticide are carefully considered and it is determined that the pesticide may generally cause unreasonable adverse effects to the environment.

All registrants and applicants for registration are invited pursuant to 40 CFR 162.11(a)(4) to submit evidence in rebuttal of the presumptions listed in Part II of this notice and, in the case of oncogenicity, to submit information which relates to the assessment of oncogenic risks as set forth in the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens (May 25, 1976; 41 FR 21402). Registrants and other interested parties may submit for consideration data on benefits which they believe would justify registration or continued registration. In addition, any registrant may petition the Agency to voluntarily cancel a current registration pursuant to Section 6(a)(1) of FIFRA.

B. *Rebuttal Criteria.* Section 162.11(a)(4) provides that a registrant may rebut the presumption by sustaining the burden of proving:

(1) In the case of a pesticide presumed against pursuant to the acute toxicity or lack of emergency treatment criteria, "that when considered with the formulation, packaging, method of use, and proposed restrictions on the directions for use and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional, or national populations of nontarget organisms is not likely to result in any significant acute adverse effects" (40 CFR 162.11(a)(4)(i));

(2) In the case of a pesticide presumed against pursuant to the chronic toxicity criteria, "that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects" (40 CFR 162.11(a)(4)(ii)); or

(3) In either case, that "the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error" (40 CFR 162.11(a)(4)(iii)).

C. *Benefits Information.* In addition to submitting evidence to rebut the presumption of risk, § 162.11(a)(5)(iii) provides that a registrant "may submit evidence as to whether the economic, social and environmental benefits of the use of the pesticide subject to the presumption outweigh the risk of use." If the risk presumptions are not rebutted, the benefit evidence [2] submitted by the registrant, applicants, and other interested persons will be considered by the Administrator in determining the appropriate regulatory action. Specifically, § 162.11(a)(5)(iii) provides that if the benefits appear to outweigh the risks, the Administrator may issue a notice of intent to hold a hearing pursuant to Section 6(b)(2) of FIFRA to determine whether the registration(s) should be cancelled or application(s) denied. Alternatively, if the "benefits do not appear to outweigh the risks, the Administrator shall issue a notice pursuant to Section 3(c)(6) or Section 6(b)(1) of the Act, as appropriate." Moreover, if at any time the Administrator determines that a pesticide poses an "imminent hazard" to humans or the environment, a notice of

[1] A position document, containing an appendix of references, background information, and other material pertinent to the issuance of this notice, has been prepared by the Agency on EPN and is also published with this notice.

[2] Registrants or other interested persons who desire to submit benefit information should consider submitting information on the following subjects, along with any other relevant information they desire to submit:

1. Identification of the major uses of the pesticide, including estimated quantities used by crop or other application.
2. Identification of the minor uses of the pesticide, including estimated quantities used by category such as lawn and garden uses and household uses.
3. Identification of registered alternative products for the uses set forth in (1) and (2) above, including an estimate of their availability.
4. Determination of the change in costs to the user of providing equivalent pesticide treatment with any available substitute products.
5. Assessment of regulation impact upon user productivity (e.g., yield per acre and/or total output) from using available substitute pesticides or from using no other pesticides.
6. If the impacts upon either user costs or productivity are significant, a qualitative assessment of the regulation's impact on production of major agricultural commodities and retail food prices of such commodities.

suspension may be issued pursuant to Section 6(c) of the Act.

## II. Presumptions

Registrations and applications for registration of pesticide products containing EPN meet or exceed the 40 CFR 162.11(a)(3) risk criteria relating to delayed neurotoxicity and acute toxicity to aquatic wildlife. The Agency's basis for concluding that these risk criteria have been met or exceeded is set out in "EPN: Position Document 1," which follows. Copies of attachments to the Position Document which are not published with this notice are available for public inspection in the office of the Special Pesticide Review Division. Information protected from disclosure pursuant to FIFRA Section 10 cannot be provided. Specific inquiries concerning the Position Document, as well as requests for access to these files, should be directed to Project Manager Patrick Miller, Special Pesticide Review Division (TS-791), EPA, Rm. 720, Crystal Mall #2, 401 M St. SW, Washington, D.C. 20460 (703/557-7973, ext. 24).

A. *Acute Toxicity: Hazard to Wildlife, Aquatic Species.* 40 CFR 162.11(a)(3)(i)(B)(3) provides that a rebuttable presumption shall arise if a pesticide's use "(r)esults in a maximum calculated concentration following direct application to a 6-inch layer of water more than ½ the acute LC-50 for aquatic organisms representative of the organisms likely to be exposed as measured on test animals specified in the Registration Guidelines."

On the basis of scientific studies and information summarized in the Position Document, the Agency has concluded that all registrations and applications for registration of pesticide products containing EPN, which are applied directly to water, exceed this risk criterion, and that a rebuttable presumption against new or continued registration of such products has arisen.

G. *Other Chronic or Delayed Toxic Effects.* 40 CFR 162.11(a)(3)(ii)(B) provides that a rebuttable presumption shall arise if a pesticide "(p)roduces any other chronic or delayed toxic effect in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety * * *."

On the basis of scientific studies and information summarized in the Position Document, the Agency has concluded that all registrations and applications for registration of pesticide products containing EPN exceed this risk criterion for delayed neurotoxicity and that a rebuttable presumption against new or continued registration of such products has arisen.

## III. Additional Grounds for Review

As discussed in detail in the attached Position Document, some data has associated EPN with teratogenic and muscular effects, cholinergic effects, disorders of the eye, possible mutagenic effects, potentiation of other compounds by EPN, and reduction in population of nontarget organisms. The data and analyses available at this time with respect to this effect are not sufficient to warrant the issuance of a Rebuttable Presumption. The Agency specifically solicits further evidence bearing on these possible adverse effects. All comments and information received with respect to the potential adverse effects, including analysis thereof, may serve as a basis for a final decision on registering pesticides containing EPN.

## IV. Rebuttal Submission Procedures

All registrants and applicants for registration listed below are being notified by certified mail of the rebuttable presumtion existing against registration and continued registration of their products.

The registrants and applicants for registration shall have 45 days from the date this notice is sent or until October 29, 1979, to submit evidence in rebuttal of the presumption. However, the Administrator may, for good cause shown, grant an additional 60 days during which such evidence may be submitted. Notice of such an extension, if granted, will appear in the Federal Register.

A registrant or applicant for registration may, if it desires, assert a business confidentiality claim covering part or all of the information submitted in rebuttal. The registrant or applicant may assert the claim by placing on or attaching to the information a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise nonconfidential documents should be clearly marked.

If a confidentiality claim is asserted, the information covered by the claim will be disclosed by EPA only to the extent and by means of the procedures set forth in 40 CFR Part 2, Subpart B (41 FR 36906; September 1, 1976). If no confidentiality claim accompanies the information at the time it is received by EPA, EPA will place the information in the public comment file where it will be available for public inspection.

If a registrant or applicant does assert a confidentiality claim for some but not all, of the information submitted to EPA in rebuttal, the registrant or applicant should furnish two copies of the information to EPA. The first copy should contain all of the information submitted in rebuttal with information claimed as confidential clearly identified. The second copy should be identical to the first except that all information claimed as confidential should be deleted. The second copy will be placed in the public comment file. The first copy will be treated in accordance with the procedures set out above.

## V. Duty To Submit Information on Adverse Effects

Registrant are required by law to submit to EPA any additional information regarding any adverse effects on man or the environment which comes to a registrant's attention at any time, pursuant to Section 6(a)(2) of FIFRA and 40 CFR 162.8(d). If any registrant of EPN products has any published or unpublished information, studies, reports, analyses, or reanalyses regarding any adverse effects in animal species or humans, residues, and claimed or verified accidents to humans, domestic animals, or wildlife, which *have not* been previously submitted to EPA, the material must be submitted immediately. When responding to this notice, each registrant shall submit a written certification to the Agency that all information regarding any adverse effects known to the registrant has been submitted. In addition, the registrants should notify EPA of any studies currently in progress, including the purpose of the study, the protocol, the approximate completion date, and a summary of all results observed to date.

## VI. Public Comments and Inspection

During the time allowed for submission of rebuttal evidence, specific comments on the presumptions set forth in this notice and on the material contained in the Position Document are solicited from the public. In particular, any documented episodes of adverse effects to humans, domestic animals, or wildlife, and information as to any laboratory studies in progress or completed are requested to be submitted to EPA as soon as possible. Specifically, information on the fate and effects of EPN, its impurities, metabolites, and degradation products on flora and fauna, particularly animals with metabolism similar to man, is solicited. Similarly, any studies or comments on the benefits from the use of EPN are requested to be submitted. All comments and information received, as well as any other relevant information

and analysis thereof, which come to the attention of the Agency may serve as a basis for final determination pursuant to § 162.11(a)(5).

All comments and information should be sent to the Office of the Federal Register Section at the address given above, if possible in triplicate to facilitate the work of the Agency and others interested in inspecting them. The comments and information should bear the identifying notation "OPP–30000/33." Comments received after the specified time period will be considered only to the extent feasible, consistent with the time limits imposed by 40 CFR 162.11(a)(5)(ii).

All written comments and information filed pursuant to this notice will be available for public inspection in the office of the Chemical Information Division from 8:30 a.m. to 4 p.m. during normal working days. Interested persons are encouraged to take advantage of the opportunity to inspect Agency files during normal working hours since (1) all of the information received may serve as a basis for final determination pursuant to § 162.11(a)(5) and (2) the Agency will not generally publish a summary of information received in the Federal Register at the close of the rebuttal period.

Your cooperation is solicited in identifying any errors or omissions which may have been made in the following computer listings. Corrections to the listings may not necessarily be published in the Federal Register, but rather handled by mail with affected parties. Omissions will be corrected by notice in the Federal Register.

Dated: September 4, 1979.

Edwin L. Johnson,

*Deputy Assistant Administrator for Pesticide Programs.*

**EPN: Position Document 1**

**U.S. Environmental Protection Agency**

*Project Manager: Patrick Miller*

**EPN: Position Document 1**

Contents

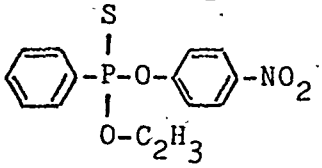


EPN: Position Document 1

## I. Background

### *A. Chemical and Physical Data*

EPN (O-Ethyl-O-p-nitrophenyl phenylphosphonothioate) is a non-halogenated, aromatic, phosphonothioate organophosphorous compound. It has the empirical fomula $C_{14}H_{14}NO_4PS$. The structural formula is:



Other chemical names used by manufacturers are ethyl p-nitrophenyl thionobenzene phosphonate and O-Ethyl-O-p-nitrophenyl benzene thiophosphonate.

The pure compound occurs as a light-yellow, crystalline powder with an aromatic odor, and the technical grade is a reddish-yellow, oily liquid (Nissan 1976). The chemical has a molecular weight of 323.3. EPN is only slightly soluble in water and is miscible with benzene, toluene, xylene, acetone, isopropyl alcohol, and methanol (Meister 1977). The partition coefficient in octanol/water is 48,253 (Shafik et al. 1976). EPN has a melting point of 34.5° C, vapor pressure of 0.03 mmHg at 100° C, and specific gravity of 1.27 at 20° C (Nissan 1976). The hydrolytic half-life of EPN is 40.9 hours at a pH of 6 and temperature of 72° C ± 2° C (Shafik et al. 1976).

Colorimetric and gas chromatographic methods of analysis for quantitatively determining EPN residues in and on plant species have been devised by Averell and Norris (1948), Coffin and McKinley (1963), Kirkland and Pease (1967), and Laski (1974). Bhagwat and Ramachandran (1974) described a simple and rapid spectrophotometric method for determination of EPN, EPNO, and p-nitrophenol in aqueous suspensions and enzymatic digests. Other methods of analysis are cited in Kirkland and Pease (1967).

### *B. Formulation and Class*

EPN is classed and used as a non-systemic insecticide-acaricide and is available in emulsifiable concentrates, dusts, wettable powders, and granular formulations. The standard commercial formulation is an emulsifiable concentrate alone or in combination with another pesticide. The concentration of EPN ranges from 21 to 55% in these various formulations. EPN is registered in combination with methyl parathion, guthion, toxaphene, and parathion.

### *C. Registered Uses and Production*

EPN was patented in 1950 by E. I. du Pont de Ne Mours, Inc. (Patent Number 2503390), and the first tolerances were issued for the chemical in the same year. Twenty-six companies hold Federal registrations and formulate 72 registered products. Six companies have former state registrations [1] and formulate 10 products.

Environmental Protection Agency (EPA) records indicate that a total of

[1] Pesticide products formerly registered under state pesticide registration laws and shipped or distributed for sale solely within intrastate commerce are subject to Federal pesticide regulations under 40 CFR 162.17(a). Application has been made to obtain Federal registration for intrastate use of these products.

4,126,500 pounds of EPN were used in the United States during 1974 (EPA 1977). Of this total, about 2 pounds were used in industry; 8,000 pounds were used in government; and 4,118,500 pounds were used in agriculture. Of the agriculture total, 4,500 pounds were used on beans; 326,000 pounds on corn; and 3,788,000 pounds on cotton. Several reports indicate that the amount of EPN used in 1974 probably is much less than the amount currently used. In 1976, EPN usage in Mississippi alone amounted to 2,469,700 pounds (MSCL 1977). And in California in 1977, EPN usage increased from a 7-year average (1970 to 1976) of 9,600 pounds to a total of 293,500 pounds. Of this 1977 total, 289,000 pounds were used on cotton (Memo 1978d).

This chemical is registered for ground and aerial application as a mosquito larvicide by Mosquito Abatement Districts, Public Health Officials, and other trained personnel of Public Mosquito Control Programs (Memo 1978a). All tolerance petitions have been submitted by E. I. du Pont de Ne Mours Co., Inc.

Table 1. Application of EPN to Cropland Sites[a/] During FY 1969 to 1974

| FY | Frequency of Application | Avg Rate of Application |
|---|---|---|
| 1969 | 0.1% (2 sites out of 1,684) | 1.5 pounds/-acre on cotton |
| 1970 | 0.2% (3 sites out of 1,346) | 1.1 pounds/-acre on cotton |
| 1972 | 0% (0 sites out of 1,473) | |
| 1973 | 0.1% (1 site out of 1,402) | 3.0 pounds/-acre on cotton |
| 1974 | 0.1% (1 site out of 1,165) | 0.38 pounds/-acre on sweet corn |

a/ Location of sites were not listed in the Monitoring Branch's report.

The National Soil Monitoring Program, conducted by EPA's Ecological Monitoring Branch, has collected information on the application of EPN by landowners (Memo 1977). Most recorded applications were on cotton. The data in Table 1 indicates the percentage of sample cropland sites to which EPN was applied. The percentage of application was low (<1%) and remained constant between fiscal year (FY) 1969 and FY 1974.

The use data available to the Agency generally indicates that applicators are most at risk from exposure to EPN. The general population would be at risk from EPN application near homes and other work or recreational areas, or from EPN residues on food (mostly cottonseed meal and oil) (see also Section III.A.(3)).

*D. Tolerances*

Established residue tolerances for EPN in or on raw agricultural commodities are listed in 40 CFR 180.119 as follows: 3 parts per million (ppm) in or on apples, apricots, beans, beets (with or without tops) or beet greens alone, blackberries, boysenberries, cherries, citrus fruits, corn, dewberries, grapes, lettuce, loganberries, nectarines, olives, peaches, pears, pineapples, plums (fresh prunes), quinces, raspberries, rutabagas (with or without tops) or rutabaga tops, spinach, strawberries, sugar beets (but not sugar beet tops), tomatoes, turnips (with or without tops) or turnip greens, and youngberries; 0.5 ppm in or on almonds, cottonseed, pecans, and walnuts; and 0.05 ppm (negligible residue) in or on soybeans.

*E. Metabolism*

(1) *Mammals.* Neal and DuBois (1965) first proposed a metabolic pathway for biotransformation of EPN of p-nitrophenol in the mammalian system which involved oxidative desulfuration to form the active toxic metabolite EPNO (O-ethyl O-p-nitrophenyl phenyl phosphonate) and subsequent hydrolysis by esterases.

Based on the works of Ahmed et al. (1958) and Nakatsugawa et al. (1968), Menn (1971) proposed a metabolic pathway for EPN in animals consisting of the toxic metabolite EPNO, and detoxification products EPPTA (O-ethyl phenyl phosphonothioic acid), EPPA (O-ethyl phenyl phosphonic acid), PNP (p-nitrophenol), and amino-EPN (see Figure 1).

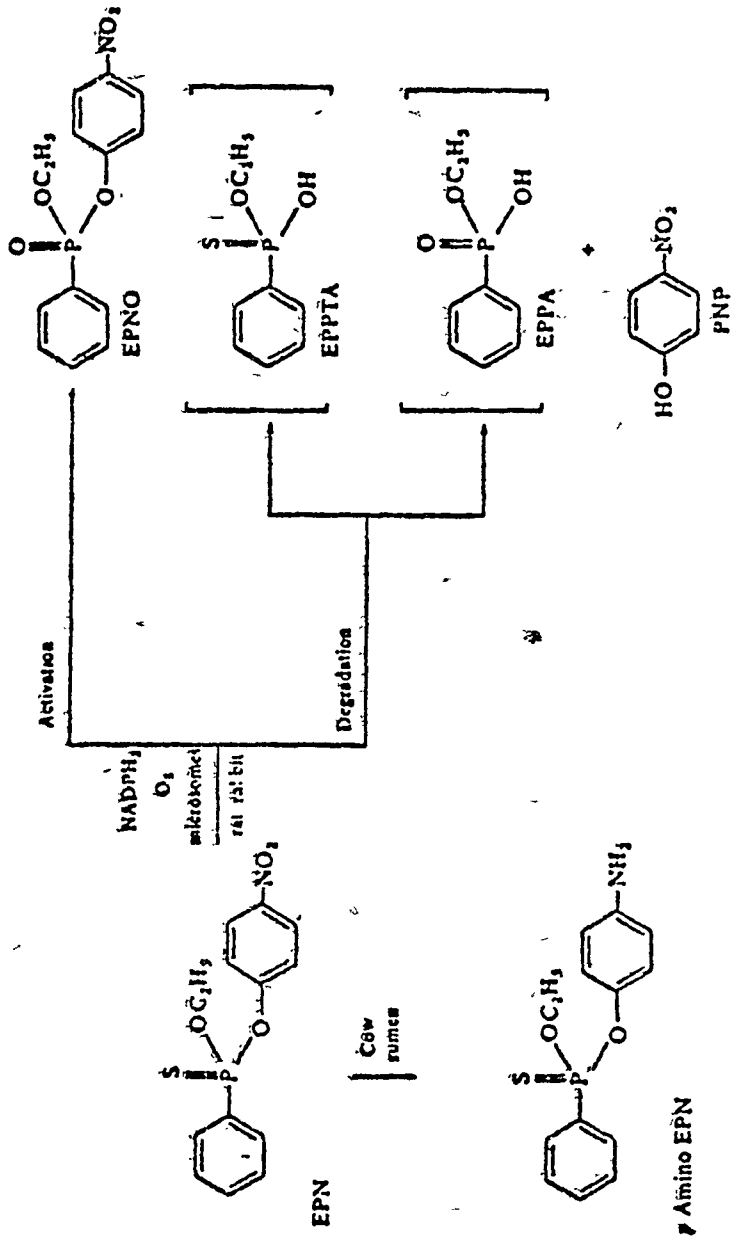



Figure 1. Proposed Metabolic Pathway for EPN in the Mammalian System

Reprinted, by permission, from J J Menn, Terminal residues of phosphonate insecticides, Page 65, IUPAC, Pesticide terminal residues (International Symposium: Tel Aviv, 1971) © 1971 by International Union of Pure and Applied Chemistry

BILLING CODE 6560-01-C

DuPont (1977a) [2] reported small amounts of radioactivity in the gastrointestinal tract (0.4%), carcass (1.1%), hide (5.6%), and internal organs (0.2%) of a single male rat orally dosed with 5.5 mg of $^{14}C$-(phenylphosphonothioate) EPN after three days. The high percentage of radioactivity in the hide was attributed to grooming. Excretory products accounted for the major radioactivity recovered. Within 72 hours, 58% of the original radioactivity was in the rat urine and 26% was in the feces. No respired $^{14}C$–EPN was detected. The major metabolites in both urine and feces were EPPTA, EPPA, phenylphosphonothioic acid, and phenylphosphonic acid. No intact EPN or EPNO was found.

Ahmed et al. (1958), using column chromatography and infrared spectra methods, analyzed EPN degradation products in one-liter samples of cow rumen juice to which 300 ppm each of EPN and its oxygen analogue, EPNO, had been added. After three hours, 5% of the EPN was recovered as amino-EPN and 50% of the EPNO as amino-EPNO. The remaining compounds were considered as products of hydrolysis.

(2) *Invertibrates.* Carlson (1972) examined the ability of the quahaug, a mollusc (*Mercenaria mercenaria*), to oxidixe or reduce EPN by analyzing various tissues for the presence of p-nitrophenol. This byproduct was not detected in whole liver homogenates, in 9,000 gram supernatent fractions or microsomal fractions of the hepatopancreas, or in whole homogenates of mantle, foot, and gills. The author concluded that the quahaug was unable to metabolize the EPN. This finding is consistent with data showing that EPN is apparently more toxic to aquatic invertebrates than to aquatic vertebrates (see Section III.B).

(3) *Plants.* DuPont (1977a) reported rapid metabolic degradation of $^{14}C$-phenylphosphonothioate) EPN on young greenhouse cotton plants sprayed once with the equivalent of 8 ounces EPN/100 gal water. EPPA was the primary metabolite found. After two weeks, 43% of the total radioactivity consisted of EPPA, 23% consisted of intact EPN, 20% consisted of phenylphosphonic acid, and 14% consisted of unextracted residue and unknown polar and non-polar compounds.

(4) *Model Ecosystem Study.* Algae (*Oedogonium*), daphnia (*Daphnia*), snail (*Physa*), mosquito (*Culex*), and fish (*Gambusia*) which had been placed in a model ecosystem were analyzed for biotransformation of $^{14}C$-(phenylphosphonothioate) by Metcalf (Letter 1977a).[3] This system consisted of a glass aquarium containing a sloping shelf of 15 kg washed white quartz sand in addition to the organisms. One mg, or the equivalent of 0.2 kg/hectare (0.18 pounds/acre), of $^{14}C$–EPN was applied to the leaves of sorghum plants. Thirty-three days after application the organisms were removed and analyzed using thin-layer chromatography and radiochemistry. All the organisms except the snail appeared to metabolize EPN and contained various metabolic products of EPN including amino-EPN, EPNO, phenylphosphonic acid, EPPA, and EPPTA.

*F. Environmental Fate*

(1) *Persistence: Soils.* Terriere and Ingalsbe (1953), using a mosquito larvae bioassay technique, analyzed for EPN deposits in the upper six inches of a sandy loam soil treated with 10 pounds of active ingredient per acre. Residues of 0.2 ppm EPN were found to persist in the soil after two years.

Metcalf (Letter 1977a) studied the persistence of $^{14}C$ EPN and $^{14}C$ parathion in the sand of a model ecosystem (see Section I.E.(4) for protocol). EPN was found to be nearly three times as persistent as parathion, comprising 84.5% of the total extracted $^{14}C$ from sand after 33 days. The remaining extracted $^{14}C$ products were amino-EPN, (0.4%), EPNO (0.574%), polar compounds (4.66%), and unknowns (9.88%).

DuPont (1977a) reported that the half-life of intact $^{14}C$ EPN in soil ranged from two weeks in Dundee silt loam to one month in Keyport silt loam under actual field conditions in soil treated with 1.8 pounds active ingredient per acre. After four months more than 90% of the residual radioactivity was in the upper 0- to 3-inch layer in both types of soil. The only metabolites found were those possessing the phenylphosphonic acid moiety. In greenhouse soil studies, the half-life of intact EPN on Fallsington sandy loam was repored to be five to six weeks.

(2) *Persistence: Water.* According to the findings of Shafik et al. (1976), EPN hydrolyzes less slowly than other organophosphate compounds. It has a hydrolytic half-life of 40.9 hours at a pH of 6 and temperature of 72°C ± 2°C. Acute toxicity data available to the Agency show that 96-hr $LC_{50}$s for aquatic vertebrates range from 16.5 to 80 ppb [see Section III.B]. EPN appears to be more toxic to aquatic invertebrates.

(3) *Bioaccumulation.* EPN bioaccumulates in certain organisms. Metcalf (Letter 1977a), in a model ecosystem study previously described in Section I.E.(4), showed that EPN accumulates in organisms to a higher degree than parathion, but accumulates less than leptophos and desbromoleptophos. EPN ecological magnification [4] values were 73 for alga, 77 for daphnia, 12,561 for snails, 315 for mosquitoes, and 346 for fish (*Gambusia*).

Schimmel et al. (1978), in 96-hr toxicity tests, reported an average bioconcentration factor of 260 in spot (*Leiostoma xanthurus*). In another 96-hr toxicity test, Schimmel (Letter 1978a) reported an average bioconcentration factor of 756 for pinfish (*Logodon rhomboides*).

In an EPN uptake/depuration study, Schimmel (Letter 1978b) reported a bioconcentration factor of approximately 700X in pinfish. EPN was readily concentrated in the tissues of the fish to an equilibrium concentration of approximately 1.7 ug/g (1.7 ppm). Within one week after termination of the exposure, no EPN was detected in the tissues.

(4) *Transport.* The findings of DuPont (1977a), previously cited in Section F.(1), show that there is little movement of EPN in soil.

*G. Residues*

(1) *Air, Water, and Soil.* Neither the EPA National Air Monitoring Program, (Memo 1977) nor the EPA National Estuarine Monitoring Program has data on EPN.

EPA's National Soil Monitoring Program has sampled agricultural soils to assess pesticide residue concentrations (Memo 1978b). EPN was not detected during the widespread agricultural monitoring from FY 1969 to 1973. However, detectable concentrations of EPN were found in 3 of 30 samples collected from cotton fields in Mississippi in 1976. Comparison of the 1976 results with the results obtained in 1972 indicates that residual EPN in soil may be increasing.

(2) *Feed.* Osburn et al. (1960) studied the persistence of EPN on forage under sprayed pecan trees in Albany, Georgia, during 1957 and 1958. EPN was applied three times at two-week intervals at a rate of 2 pounds of 25% wettable powder in 100 gal water. Residues were analyzed using the method of Averell

[2] Studies submitted by registrants in support of tolerance petitions are automatically classified Confidential prior to action on the petition.

[3] The author is preparing this material for publication and has asked that it not be released.

[4] "Ecological magnification" and "Bioconcentration" are here defined as the concentration of the parent compound in the organism as compared to concentration in water.

and Norris (1948). The following results were obtained (Table 2). Over 90% of the initial residues were lost after two weeks in all but one trial. There is no established tolerance level for residues of EPN on grass or grass hay.

Table 2. EPN Residues on Forage Under Sprayed Pecan Trees During 1957 and 1958

| Days Following Treatment | Residues (ppm) First Application | | Second Application | | Third Application | |
|---|---|---|---|---|---|---|
| | 1957 | 1958 | 1957 | 1958 | 1957 | 1958 |
| 0 | 36.4 | 76.4 | 33.2 | 39.0 | 24.5 | 33.2 |
| 7 | 4.0 | 4.9 | 6.4 | 7 9 | 0.6 | 8.8 |
| 13 | 0.9 | 3.5 | 2.0 | 2.5 | 0.4 | 5.8 |

(3) *Food: FDA Commodity Survey.* The Food and Drug Administration (FDA) has been collecting food and feed samples on domestic and imported products for a number of years, analyzing each sample to determine pesticide residue levels and frequency of occurrence (FDA undated). The FDA surveillance program [5] surveyed for EPN during FY 1972 through 1976. Residues of EPN were found only in 1975 on the following domestic products (Table 3).

Table 3. EPN Residues Reported by FDA Surveillance Program for FY 1972 to 1976

| FY | State | Commodity | Residue (ppm) |
|---|---|---|---|
| 1975 | NY | large fruits (baby food) | trace |
| 1975 | MA | Infant Jr. Foods (apples) | trace |
| 1975 | FL | nuts (peanuts)[a/] | 0.18 |
| 1975 | FL | nuts (peanuts)[a/] | 0 20 |

a/ There is no established tolerance level for EPN on peanuts.

A review of the Pesticides Monitoring Journal for the years 1964 through 1974 revealed no other positive or negative reports for EPN residues on food and feed products.

(4) *Plants.* Wolfenbarger et al. (1970), using gas liquid chromatography (GLC), analyzed surface and internal residues following foliar treatment of conventional and ultra low volume (ULV) emulsion sprays of 1.12 kg EPN/ha (1 pound EPN/acre) to cotton foliage in Brownsville, Texas. The original external residue concentration declined by 50% 15.1 and 19.7 hours after treatment with the ULV and the conventional spray, respectively. After three days, external residues on conventional and ULV-treated cotton plants were 0.019 and 0.01 ug/cm$^2$ respectively. No residues were detected on internal samples.

(5) *Animals.* Hodge et al. (1954) analyzed tissues from rats used in a two-year dietary study [6] and found that there was little tendency for storage of EPN (Table 4).

Table 4 Residues Found in the Tissues of Rats After a Two-Year Feeding Study

| Sex | Diets (ppm) | Ranges in Tissue Residues (ppm) Liver | Kidney | Perirenal fat | Brain | Spleen |
|---|---|---|---|---|---|---|
| M | 50 & 150 | 0-5 | 0-2 | 0-2 | 0-7 | 0-6 |
| | 450 | 4-7 | 2-3 | 2-4 | 4-6 | 5-9 |
| F | 25 & 75 | 0-9 | 0-3 | 0-4 | 0-6 | 0-22 |
| | 225 | 5-7 | 2-5 | 3 | 3-12 | 5-31 |

[5] The FDA Program under which continuous monitoring is carried out.

[6] It is not known if the tissue samples were analyzed immediately after termination of the experiment, or if there was a time lapse.

(6) *Humans.* The National Human Monitoring Program for Pesticides, through its cooperative arrangement with the National Center for Health Statistics of the U.S. Public Health Service, is sampling human urine for *p*-nitrophenol (Memo 1977). This survey, however, will not be completed until 1979. Preliminary data suggest that human exposure to parathion, methyl parathion, and EPN (all of which produce *p*-nitrophenol upon metabolism) is at a low frequency and level. To date approximately 400 out of a total of 7,500 samples taken of the general population have been analyzed. *p*-Nitrophenol has been detected in approximately 2% of the samples.

*H. Toxicity Studies*

(1) *Aquatic Species.* A summary of the available data on the acute toxicity of EPN to fresh water, marine, and estuarine species is listed in Table 5.

(2) *Birds.* A summary of the available data concerning the toxicity of EPN to birds is listed in Table 6.

(3) *Mammalian Species.* A summary of the available data concerning the toxicity of EPN to mammals is listed in Table 7 Additional information is provided by Hodge et al. (1954), Frawley et al. (1957), and Radeleff and Woodard (1957).

Palmer (1974), in acute oral toxicity studies, found minimal toxic doses of 2.5 mg/kg for calves and 25 mg/kg for yearling cattle and sheep. Maximal non-toxic doses were 1 mg/kg for calves and 10 mg/kg for yearling cattle and sheep.

Palmer (1974) estimated that unrestricted grazing by livestock of vegetation treated at recommended application rates could potentially expose these animals to doses of 5 to 84 mg EPN/kg body weight per day. An application rate of 4.5 kg/ha or more would be hazardous to sheep and cattle. The lowest recommended application rate for EPN (0.84 kg/ha) would probably be hazardous to calves.

Table 5. Acute Toxicity of EPN to Fresh Water and Marine/Estuarine Species

| Species | Exposure Time/-Toxicity Parameter | Toxicity Value (ppb) | Reference |
|---|---|---|---|
| juvenile striped bass (Morone Saxatilis) | 96 hr/TLm[a/] | 60 | Korn and Earnest (1974) |
| rice field fish (Aplocheilus latipes) | 24 hr/LC-50[b/] | 290 | Shim and Self (1973) |
| fathead minnow (Pimephales promelas) | 96 hr/TLm | 1,000 | Henderson and Pickering (1957) |
| spot (Leistomus xanthurus) | 96 hr/LC-50 | 25.6 | Schimmel et al. (1978) |
| bluegill sunfish (Lepomis macrochirus) | 96 hr/LC-50 | 80 | Letter (1977b)[d/] |
| rainbow trout (Salmo gairdneri) | 96 hr/LC-50 | 190 | Letter (1977b) |
| carp (Cyprinus carpio) | 48 hr/TLm | 350 | Nishiuchi and Hashimoto (1967) |
| carp (Cyprinus auratus) | 48 hr/TLm | 320 | Nishiuchi and Hashimoto (1967) |
| scud (Gammarus lacustris) | 96 hr/LC-50 | 15 | Sanders (1969) |
| daphnia (Daphnia pulex) | 3 hr/TLm | 1.2 | Nishiuchi and Hashimoto (1967) |
| daphnia (Moina macrocopa) | 3 hr/TLm | 7.1 | Nishiuchi and Hashimoto (1967) |
| daphnia (Daphnia magna) | 48 hr/LC-50 | 0.32 | Letter (1977b) |
| pink shrimp (Penaeus duorarum) | 96 hr/LC-50[c/] | 0.29 | Schimmel et al. (1978) |
| pinfish (Lagodon rhomboides) | 96 hr/LC-50 | 16.4 | Letter (1978) |

a/ Median tolerance limit.
b/ Lethal concentration to 50% of the population.
c/ EPN is extremely toxic to pink shrimp (Penaeus duorarum). Schimmel et al. (1977) reported that at a concentration of EPN below the limit of detectability (0.02 ppb), 20% of the shrimp used in his experiment died.
d/ Studies submitted by registrants in support of tolerance petitions are classified CONFIDENTIAL and may not be released without permission.

Table 6. Acute Toxicity of EPN to Bird Species

| Species | Toxicity Parameter | Toxicity Value | Reference |
|---|---|---|---|
| bobwhite (Colinus virginianus) | LC-50[a/] | 349 ppm | Hill et al. (1975 |
| Japanese quail (Coturnix coturnix japonica) | LC-50[a/] | 443 ppm | Hill et al. (1975) |
| | Oral LD-50[b/] | 5.25 mg/kg | Tucker and Haegele (1971) |
| ring-necked pheasant (Phasianus colchicus) | LC-50[a/] | 1,075 ppm | Hill et al. (1975) |
| | Oral LD-50[b/] | 53.4 mg/kg | Tucker and Haegele (1971) |
| mallard (Anas platyrhynchos) | LC-50[a/] | 330 ppm | Hill et al. (1975) |
| | Oral LD-50[b/] | 3.08 mg/kg | Tucker and Haegele (1971) |
| starling (Sturnus vulgaris) | Oral LD-50 | 7 5 mg/kg | Schafer (1972) |
| red-winged blackbird (Agelaius phoeniceus) | Oral LD-50 | 3.2 mg/kg | Schafer (1972) |
| chukar partridge (Allectoris graeca) | Oral LC-50[b/] | 14.3 mg/kg | Tucker and Haegele (1971) |
| pigeon (Columba livia) | Oral LD-50[c/] | 5.9 mg/kg | Tucker and Haegele (1971) |
| house sparrow (Passer domesticus) | Oral LD-50[b/] | 12.6 mg/kg | Tucker and Haegele (1971) |
| chicken (Gallus gallus domesticus) | Oral LD-50[b/] | 10.0 mg/kg | Abou-Donia (1977) |

a/ LC-50 = median lethal concentration based on five days of exposure of approximately two-week old birds to treated feed, followed by three days exposure to untreated feed.

b/ Females only.

c/ Males and females.

Table 7 Summary of General Mammalian Toxicity Data of EPN

| Test Species | Type of Study | Dose level Remarks | Results | References |
|---|---|---|---|---|
| rat | acute oral LD-50 | - | 7.8 mg/kg (female) 33 mg/kg (male) | Neal and DuBois (1965) |
| rat | acute oral LD-50 | - | 7.7 mg/kg (female) 36.0 mg/kg (male) | Gaines (1969) |
| rat | acute oral LD-50 | - | 37.5 mg/kg (female) | Suzuki (1973) |
| weanling rat | acute oral LD-50 | - | 8.0 mg/kg | Brodeur and DuBois (1963) |
| rat | acute dermal LD-50 | - | 25 mg/kg (female) 230 mg/kg (male) | Gaines (1969) |
| rabbit | acute dermal | 200 mg/kg 2,000 mg/kg | no effect 4 of 4 died | Letter (1977b) |
| rat | acute (4-hr) inhalation | 2.0 mg/liter 102 mg/liter | no effect 6 of 10 rats died within 4 hrs | Letter (1977b) |
| rabbit | eye irritancy | 0.1 ml | no effect after 24 hrs; 3 of 8 died[a/] | Letter (1977b) |
| dog | chronic oral | 0, 0.1, 0.5 and 2.0 mg/kg (1 year) | no effects other than tendency for increased liver weight with increasing doses | Hodge et al. (1954) |
| rat | chronic oral | 0, 50, 150 and 450 ppm (male) and 0, 25, 75, and 250 ppm (female) for 2 years | no effect other than retarded growth at 450 ppm (male) and 225 ppm (female) | Hodge et al. (1954) |
| rat | chronic oral | 0, 3, 15, and 75 ppm (male and female) for 6 months | depression of secretion of submandibular gland at 75 ppm at 3 months | Suzuki (1973) |

a/ EPN is highly toxic via the ocular route without signs of eye irritancy.

BILLING CODE 6560-01-C

(4) *Toxicity of EPN Metabolites and Isomers.* Dupont (1977b) [7], in acute oral toxicity tests on rats using metabolites of EPN, reported approximate lethal dose (ALD) [8] values of <5,000 mg/kg for ethyl phenylphosphonic acid, 2,250 mg/kg for ethyl phenylphosphonothioc acid, and 3,400 mg/kg for phenyl phosphonic acid.

Ohkawa et al. (1977) determined $LD_{50}$ values for the optical isomers of EPN in mice, hens, houseflies, and rice stem borer larvae (Table 8).

Table 8 Toxicity of EPN Isomers to Mice, Hens, Houseflies, and Rice-Stem Borer Larvae

| Species | Type of Administration | LD-50 Compound | | |
|---|---|---|---|---|
| | | (+) EPN | (-) EPN | (±) EPN [racemic] |
| Mouse (mg/kg) | intraperitoneal | 17 | 16 | 16 |
| Hen (mg/kg) | intraperitoneal | 12 | 47 | 17 |
| Housefly (ug/kg) | topical | 1 1 | 3.2 | 1 3 |
| Rice-stem borer (ug/kg) | topical | 2.9 | 11.7 | 5 9 |

The authors reported that the (+) isomer of EPN exhibited a greater insecticidal toxicity to houseflies (2.9X) and rice stem borer (4.0X) than the (−) EPN isomer. The (+) isomer was also found to be 3.9X as toxic to hens. Both isomers were reported to be equally toxic to mice. Similar results were obtained by Nomeir and Dauterman (Undated) in houseflies and mice using the optical isomers of EPN and EPNO.

*I. Pesticide Episode Review System (PERS) Reports*

A Pesticide Episode Reports System (PERS) [9] is maintained by EPA's Pesticide Response Branch of the Office of Pesticide Programs (Memo 1976). PERS collects reports of pesticide exposure affecting humans, domestic animals, livestock, and wildlife.

From 1971 to 1976 six episodes were reported involving the pesticide EPN. Five of these episodes involved human exposure to EPN and other pesticides; one involved contamination of unspecified materials during transportation by EPN alone. Of the five cases involving humans, two reported normal cholinesterase levels, two did not report on cholinesterase levels, and one reported a cholinesterase level of 1.45 International Units (Normal range, 2.45 to 5.04). All five of these cases involved exposure to other pesticides as well as to EPN.

**II. Regulatory History**

EPN has been subjected to three regulatory actions, initiated during the period when USDA was responsible for the regulatory control of pesticides.

PR Notice 68-6 published on February 1, 1968, proposed the cancellation of use of EPN on onions in the absence of a finite tolerance or exemption (USDA 1968a).

PR Notice 68-8 published on April 24, 1968, classified certain chemical use patterns as non-food uses, allowing registration of products for these uses to continue in the absence of finite tolerances. Use of EPN as a special mosquito larvicide was classified as a non-food use (USDA 1968b).

PR Notice 68-19 published on November 29, 1968, classified EPN and certain other pesticides as highly toxic to bees and required the label statement, "This product is highly toxic to bees exposed to direct treatment or residues on crops. Protective information may be obtained from your Cooperative Agricultural Extension Service" (USDA 1968c).

**III. Summary of Scientific Evidence To Support Rebuttable Presumption**

*A. Delayed Neurotoxicity*

40 CFR 162.11(a)(3)(ii)(B) provides that a rebuttable presumption shall arise if a pesticide "[p]roduces any other chronic or delayed toxic effect in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety. " The Agency has concluded that all pesticides containing EPN exceed the chronic risk criterion relating to delayed neurotoxicity.

Delayed neurotoxity is a phenomenon caused by some organophosphorous compounds such as tri orthocresyl phosphate (Smith et al. 1932) and leptophos (Abou-Donia and Preissig 1976). A characteristic clinical sign of this adverse effect in sensitive species is ataxia which usually appears several days after dosing or poisoning. Histopathologically, delayed neurotixicity appears to be characterized by a dying back of the axonal region of the neuron with secondary damage to the myelin sheath (Johnson 1974). The target site in the central nervous system is believed to be a specific protein called neurotoxic esterase (Johnson 1975; El-Sebae et al. 1977). Because of its sensitivity, the chicken hen is the species of choice in neurotoxicity testing.

In assessing the risk of EPN to human health, the Agency has considered the lowest tested dosage (0.01 mg/kg per day) which has *not* produced either histological changes or clinical signs indicative of delayed neurotoxity in the most sensitive species (no-observed effect level, or NOEL). Based on the exposure estimates discussed in Section III.A.(3) of this document, the Agency concludes that the anticipated amount of EPN to which pesticide applicators and unprotected bystanders may be exposed by the dermal (and, in some

[7] Studies submitted by registrants in support of tolerance petitions are automatically classified Confidential prior to action on the petition.

[8] The ALD was based on single doses of one animal per dose level by intragastric intubation.

[9] This system is now (1979) called the Pesticide Incident Monitoring System (PIMS).

instances, by the inhalation) route may not provide an ample margin of safety. The Agency also concludes that insufficient information exists on the exposure of the general population to EPN resulting from the consumption of residues on food to initiate a rebuttable presumption. The Agency requests registrants and other interested parties having information on EPN residues on food to submit such information to the Agency for consideration in the RPAR process. Finally, the Agency also requests registrants and other interested persons to comment on information the Agency has received which indicates that some applicators may ignore label directions to wear protective clothing.

(1) *Hens.* Abou-Donia and Graham (1978) administered technical grade EPN (85%) to 19-month-old, mixed-breed laying hens *Gallus gallus domesticus),* weighing 1.57 ± 0.03 kg. The birds were placed in individual cages for one week to adjust to the environment before beginning the study. Seven groups of birds (six birds in each group) received single daily oral doses of 0.01, 0.1, 0.5, 1.0, 2.5, 5.0, and 10.0 mg/kg of technical EPN in gelatin capsules for three months. Surviving birds were observed for an additional month after termination of the treatment. Four groups of controls were used. These were administered empty gelatin capsules. atropine sulfate (only for 34 days), parathion (negative controls), and tri-o-cresyl phosphate (TOCP-positive controls), respectively.

All hens given doses of 2.5, 5.0, and 10.0 mg EPN/kg showed acute cholinergic signs shortly after administration of the first dose. All subsequent administrations of EPN at these dosages were preceded by oral administration of atropine sulfate in order to avert the pesticide's acute effects.

Five to 21 days after the initial dose, ataxia was observed in all hens receiving EPN at 0.1 to 10 mg/kg. Ataxia became evident an average of 19 days after administration at the 0.1 mg/kg level, compared to 8.6 days at the 10.0 mg/kg level. Hens given 0.01 mg/kg showed no abnormalities throughout the experiment.

The severity of the clinical effects was dose dependent. The clinical condition of four of the six hens that were dosed with 10 mg EPN/kg per day progressed from paralysis at 7 to 66 days, to death at 8 to 67 days. One hen died shortly after the first dose without paralysis, and the sixth hen demonstrated severe ataxia. Four of the six hens administered 2.5 mg EPN/kg per day experienced ataxia with near paralysis. Two hens demonstrated severe ataxia characterized by legs sprawling out in front, inability to stretch the legs, and lowering of the hind quarters. At the 0.5 mg/kg level, five hens exhibited total ataxia (characterized by a disturbance of control of leg movement with a change in gait), and one hen progressed to severe ataxia. At the 0.1 mg/kg, the clinical condition of five hens progressed to total ataxia. Three days after the last dose of EPN, the condition of all five hens improved to mild ataxia (characterized by diminshed leg movement, reluctance to walk, and the tendency to slide on the floor and fly). However, the mild ataxia persisted during the remaining 27 days of the observation period. The condition of the sixth hen progressed to paralysis and death.

No paralysis or ataxia was observed in any of the control hens administered empty gelatin capsules, atropine sulfate alone, or EPN at 0.01 mg/kg. All negative control hens that were given parathion showed leg weakness. However, except for one hen which died, all completely recovered after administration of parathion was stopped. All the positive controls developed paralysis or near paralysis.

The most consistent histologic abnormalities were observed in the anterior column of the spinal cord. All examined hens which received 5 and 10 mg EPN/kg per day and two hens which received 2.5 mg EPN/kg per day exhibited severe lesions characterized by loss of myelin; absence of both axons and myelin in scattered areas; swollen, frayed, and fragmented axons; and occasional reactive astrocytes. Posterior columns and sometimes lateral columns of the spinal cord exhibited occasional swollen, fragmented axons without detectable myelin loss. Another two hens from the 2.5 mg/kg group and two hens from the 1.0 mg/kg group were found to have occasional swollen and fragmented sheaths and axons in the spinal cord. No histologic abnormalities were found in the remaining four hens in the 1.0 mg/kg group, any of the six hens in the 0.5 mg/kg group, nor in five hens in the 0.1 mg/kg group. One hen in the last group showed perivacular lymphocytic cuffing in the thoracic cord, but no sign of neuronal or myelin degeneration.

Mild axon and myelin degeneration in the sciatic nerve was observed in one hen administered 10 mg EPN/kg per day. One hen given 5.0 mg EPN/kg per day exhibited rare swollen or mission sheaths and axons in the sciatic nerve. No lesions were observed in the examined brains or retina and optic nerves of the EPN-treated hens.

All positive control hens were observed to have spinal cord lesions similar to those observed in EPN-treated hens. No histological abnormalities were observed in the spinal cord, brain, or sciatic nerve of hens treated with empty gelation capsules, parathion, or atropine sulfate.

In an unpublished experiment described in a preliminary report by Sakamoto (1977), oral doses of 1, 3, and 10 mg/kg of EPN in aqueous suspension were administered to three groups of White Leghorn laying hens (ten hens in each group) every day except Sunday for 28 days. The hens were observed for 21 days after administration. Four of the ten hens fed the highest dosage of EPN demonstrated mild ataxia beginning from 23 to 42 days after the first day of administration. It appears from the prelimary report that none of the affected hens recovered during the observation period. No ataxia was observed in any of the hens fed 1 or 3 mg EPN/kg or in any of the negative controls. All ten positive controls, fed 50 mg/kg per day of TOCP, demonstrated paralysis. Although histological specimens of nerve tissue of all hens were taken, the results were not available when the preliminary report was prepared.

A 120-day feeding study of the effects of EPN in the diets of adult female chickens of the Rhode Island Red strain is summarized in a Communicable Disease Center publication (CDC Undated). Groups of two chickens were fed ground Purina Laboratory Chow containing 0, 20, 50, 100, 200, and 400 ppm of technical EPN. The two hens on the 400-ppm dose refused to eat the EPN-contaminated diet, and both died on the 45th day, presumably of starvation. The authors noted muscle weakness in the legs in four chickens fed approximate average daily doses of 0.6, 1.1, 1.8, and 2.4 mg EPN/kg beginning on the 25th, 50th, 42nd, and 42nd day of the experiment, respectively. This trait persisted in all cases until death or until the end of the 120-day feeding study. The summary made no mention of whether leg weakness appeared in the two controls or the remaining four birds fed an average of 0.6, 1.0, 2.3, or 3.4 mg EPN/kg per day over the course of the 120-day feeding period. A histopathological examination was not performed on any of the birds.

Durham et al. (1956) dosed ten atropinized adult hens of the Rhode Island Red Strain with a single 60 mg/kg subcutaneous dose of EPN in peanut oil carrier. Leg weakness occurred immediately in all hens. The minimum

dosage at which this trait was noted was 40 mg/kg (number of hens at this level not indicated). The muscle weakness following dosage of EPN was irreversible in most cases, with one survivor still showing leg weakness 308 days after dosing.

Witter and Gaines (1963) dosed thirteen hens of a sex-linked [*sic*] strain with a single 60 mg/kg subcutaneous dose of EPN in peanut oil carrier. These workers observed paralysis lasting from the first day to the termination of the experiment (unspecified period).

Aldridge and Barnes (1966) administered a single dose of ethyl p-nitrophenyl phenylphosphonate (EPNO) to six-month-old hens of a Rhode Island Red X Light Sussex cross by subcutaneous injection using ethanol as the carrier. As discussed previously in Section I.E. (1), EPNO has been indicated as a possible metabolic product of EPN in mamalian systems. At a dosage of 10 mg/kg EPNO, some birds exhibited ataxia characteristic of delayed neurotoxicity. The article also reported that histologic lesions as described in another article (Cabanagh 1954) were observed. The number of birds tested, the number exhibiting clinical symptoms, and the exact nature of the clinical and histological findings were not discussed in the Aldridge and Barnes study.

Gaines (1969) administered single subcutaneous doses of EPN and other carbamate and organophosphorous compounds to atropinized chickens. The various compounds were tested in either White Leghorn or Rhode Island Red chickens, but the strain used for the EPN study was not indicated. The lowest dose of EPN which produced leg weakness in the chicken was 40 mg/kg and the highest ineffective dose was 20 mg/kg. Some of the chickens exhibiting leg weakness failed to recover completely during the observation period (greater than 330 days). The number of chickens used in the study and the percentage of chickens which exhibited leg weakness were not indicated.

Ohkawa et al. (1977) administered single intraperitoneal doses of the optical isomers of EPN in dimethyl sulfoxide solution to White Leghorn chickens (1.7 to 2.2 kg). The hens were atropinized immediately, and 6 and 24 hours afterwards. The various doses used and the results observed are given in Table 9.

Table 9 Delayed Neurotoxicity of Racemic EPN, (+) EPN, and (-) EPN in Hens

| Compound | dose (mg/kg) | hens dosed, No | death No | delayed paralysis No |
|---|---|---|---|---|
| (+) EPN | 31 2 | 3 | 0 | 0 |
| | 40 6 | 3 | 0 | 0 |
| | 52.8 | 3 | 0 | 0 |
| | 68 6 | 3 | 0 | 0 |
| | 89 2 | 3 | 2 | 0 |
| | 31 2 | 3[a/] | 0 | 0 |
| | 40 6 | 3[a/] | 1 | 2 |
| (-) EPN | 52.8 | 3[a/] | 2 | 1 |
| | 68 6 | 3 | 0 | 3 |
| | 89 2 | 3 | 0 | 3 |
| racemic | 31 2 | 5 | 0 | 0 |
| (±) EPN | 40 6 | 5 | 0 | 0 |
| | 52 8 | 5 | 1 | 1 |
| | 68.6 | 3 | 0 | 1 |
| | 89 2 | 3 | 1 | 2 |

a/ Hens were not atropinized.

Paralysis of the legs developed in the hens dosed with (−) EPN (all surviving hens at all doses except the lowest) and racemic (±) EPN (four hens at the higher doses). The paralysis occurred 10 to 14 days after administration and appeared to be irreversible, persisting to the end of the four week observation period. No paralytic signs were seen in hens dosed with the (+) isomer at any level. The authors did not indicate whether these hens exhibited any ataxia.

The histological examination showed degenerating myelin sheaths and swollen and fragmented axons in the sciatic nerve, and cervical, thoracic, and lumbar regions of the spinal cord of (−) EPN poisoned hens. The (+) EPN treated hens did not demonstrate these changes, and the authors did not indicate whether any sistological examination of the (±) EPN treated hens was performed.

The Biochemicals Department of the E.I. duPont de Nemours and Company (DuPont 1977a) has submitted to EPA a progress report on its ongoing two-year chronic oral toxicity study on chickens. Six groups of 50 White Leghorn hens were fed a daily diet containing 0 (negative control), 1, 5, 15, and 45 ppm of technical EPN and 200 ppm TOCP (positive control). After 31 weeks, 38 of the 45 surviving hens fed 45 ppm EPM exhibited clinical signs of neurotoxicity ranging from slight intermittent ataxia (20 hens) to moderate or severe ataxia (8 hens). One hen was unable to stand due to paralysis of the legs. Ataxia first appeared after seventeen weeks, although the preliminary report is not clear on this point. No clinical abnormalities were observed after 31 weeks in the controls or in the hens fed 1, 5, and 15 ppm EPN. Thirty-seven of the surviving forty-four positive controls exhibited clinical signs of gross neurotoxicity (DuPont 1977a). Preliminary histopathological examinations were performed at 50

weeks (DuPont 1979a) on three hens in each group. Except for the 45 ppm group in which four hens were sacrificed. The Agency's analysis of this study awaits completion of final histology, residue analysis, and biochemical measurements, which are in progress. DuPont reported that treatment-related changes were observed in the spinal cords and brains of hens in the 45 ppm group; no lesions attributable to EPN were noted in hens from the 1, 5, or 15 ppm groups. No treatment-related changes were evident in the sciatic nerves of any dose group. Electron microscope histology of nerve tissues from hens at the 45 and 15 ppm levels revealed certain alterations in the sciatic nerve but not in the brain or spinal cord. DuPont also noted that these lesions might have resulted from poor fixation and improper handling of tissues in preparation for electron microscopy. It is not possible to determine a no-effect-level for EPN from the results of the DuPont study because the study has not yet been completed and because the progress reports lack sufficient detail.

In a paper presented at a conference on delayed neurotoxicity, Frawley (1976) reconstructed from his laboratory records the results of unpublished neurotoxicity studies he and his co-workers had conducted twenty years before. In one study, he had administered a diet containing approximately 300 to 600 ppm of EPN daily to four hens (probably of the Rhode Island Red strain) over a period of five to fourteen weeks. The hens exhibited progressive muscular weakness and ataxia with eventual inability to stand. Histological examination of the EPN-treated hens revealed fragmentation and lysis of axons, swelling of nerve fibers, and myelin degeneration in the sciatic nerve. Controls showed no clinical or histological abnormalities. In another study, hens were fed various doses of EPN over a seven month period. Three or four birds fed 50 ppm EPN, the lowest dose administered, demonstrated slight to moderate clinical signs indicative of delayed neurotoxicity. The histological reports for this sutdy were lost.

Industrial Biotest Laboratories (1976) administered by gavage a single 28.8 mg/kg dose of EPN to twenty hens once at the start of the experiment and again 21 days later. The hens were observed for an additional 21 days. These hens exhibited severe ataxia, severe lethargy, and anorexia within 30 minutes of each dose of EPN. However, the report of the experiment states that the majority of the survivors were normal within 48 hours of each dose and that no behavioral signs indicative of neurotoxicity were noted. Histopathological examination of the brain, spinal cord, and sciatic nerve did not reveal any axonal degeneration or demyelination in any of the test hens. Positive control hens administered a single 500 mg/kg dose of TOCP exhibited extreme weakness of the legs and wings by the eleventh day after dosing. In addition, all the positive controls exhibited some axonal degeneration or demyelination in the spinal cord or sciatic nerve.

Although no signs of delayed neurotoxicity were observed in hens exposed to EPN in this study, this result is not necessarily inconsistent with the results obtained in the experiments described above. All of those experiments elicited delayed neurotoxicity either after multiple exposures to lower levels or after single exposure to higher levels of EPN than were employed in the Industrial Biotest Laboratories study (1976).

Kaneko and Sakamoto (1976) administered oral doses of EPN ranging from 22.2 mg/kg to 48.7 mg/kg once at the start of the experiment and again 21 days later to six groups of five White Leghorn hens. No paralysis was observed in any of the surviving hens. However, the authors do not indicate whether any ataxia was observed. In addition, no description was given of the clinical status of any of the hens which died during the course of the experiment.

In assessing the margin of safety for humans, the Agency used the no-obseved effect level [0.01 mg/kg] in the most sensitive species [chickens] (Abou-Donia and Graham 1978). Although Sakamoto (1977) showed no delayed neurotoxic effects in hens at dosages below 10 mg/kg, it is possible that his experiment was too short for these effects to be manifested at lower dosages. Furthermore, since EPA's Criteria and Evaluation Division [10] has reviewed the Abou-Donia study and concluded that it was a well-conducted experiment, there is no reason to reject its findings. The other studies on delayed neurotoxicity were either single-dose experiments which provided no data on possible adverse effects at lower doses after multiple exposures, or did not provide sufficient information to determine the exact amount of EPN administered.

(2) *Rodents.* El-Sebae et al. (1977) administered a single oral dose of 20 mg/kg EPN in corn oil carrier to an unspecified number of adult white mice weighing 10 to 18 grams. Irreversible ataxia of the hind legs was seen after 29 days. The authors did not state how long the animals were observed.

In a preliminary study, Metcalf (Letter 1977c) fed a single dose of EPN in corn oil to three female rats at one-fourth the $LD_{50}$ value (i.e., 10 mg/kg). Marked ataxia in the hind legs was noted on day 2 of the experiment. By day 6, the rats were normal, and no recurrence was noted one month later.

(3) *Exposure Analysis.* In order to determine whether a rebuttable presumption should be issued on the basis of delayed neurotoxicity under § 162.11(a)(3)(ii)(B), the Agency must determine whether an ample margin of safety exists between the no-observed effect level for EPN-induced delayed neurotoxicity in test animals (0.01 mg/kg per day) and the level(s) to which humans can reasonably be anticipated to be exposed through oral, dermal, or inhalation exposure. The following estimates of dermal and inhalation exposure are based on an analysis performed by EPA's Hazard Evaluation Division [HED] (Memo 1979c) of a study submitted by a registrant (Velsicol 1979). The levels of exposure were calculated for a 70-kg person.

(a) *Oral Exposure.* EPN is registered for use on a large number of raw agricultural commodities. Very limited monitoring data on EPN residues in food products are available (see Section I.G.(3)). In addition, it appears that current use of EPN on food crops is either non-existent or negligible (Memo 1979a). Use of EPN on cotton, however, seems to be increasing (Memo 1979a; see also Section I.B). Cottonseed meal and oil contribute to the human diet (e.g., as salad oil or margarine). A tolerance of 0.5 ppm has been established for EPN residues in or on cottonseed. In order to determine possible dietary exposure from EPN residues on cottonseed, the Agency used the assumption that residues would be present at tolerance levels. Human dietary exposure to EPN would therefore equal 0.5 ppm (=0.5 mg/kg) × 1.5 kg/day (total daily food intake) × 0.0015 (% contribution of cottonseed to daily diet)/70 kg (adult weight)=0.00002 mg/kg body weight per day. The Agency concludes that an ample margin of safety exists between exposure to EPN residues on cottonseed and the NOEL of 0.01 mg/kg.

Although it appears that there is currently little use of EPN on food crops (and therefore little exposure from EPN residues on food), the Agency points out that the potential for such exposure still

[10] During an Agency reorganization, the Criteria and Evaluation Division (CED) was changed to the Human Effects Division (HED).

exists because EPN use on food crops could increase in the future. The Agency has calculated possible future dietary exposure to EPN, based on the worst-case assumptions that residues would occur on all food crops for which EPN is registered and that residues would occur at tolerance levels (Memo 1979b). Possible future dietary exposure could therefore equal 0.016 mg/kg body weight per day. If EPN use on food crops becomes substantial in the future, then it is possible that residue levels on these crops would not constitute an ample margin of safety. The Agency is therefore considering possible regulatory action to ensure that an ample margin of safety will exist. The Agency therefore requests registrants and other interested parties to submit any information they may have on EPN residues on food crops, or on degradation of EPN residues.

(b) *Inhalation and Dermal Exposure.**—The population most at risk for inhalation and dermal exposure are personnel involved in aerial and ground application of EPN (including airplane pilots, flaggers, and mixers and loaders of the formulated product), field workers and scouts who enter treated fields soon after application, and unprotected bystanders in contiguous fields or in adjacent dwelling places and other structures. The Agency has concluded that EPN exposure to these workers and to unprotected bystanders does not provide an ample margin of safety. The Agency is therefore issuing a rebuttable presumption against registration for all EPN products based on the "other chronic effects" (delayed neurotoxicity) risk criterion. In addition, the Agency is requesting registrants and other interested persons to submit comments or information on the failure of applicators to wear protective clothing, according to label directions, and on possible exposure to EPN of scouts and other agricultural field workers who re-enter treated fields 24 to 48 hours after application.

The Agency has recently received an EPN exposure study of applicators and support personnel (Velsicol 1979). This study presents data for inhalation and dermal exposure to pilots, mixers and loaders, flaggers, and ground spray applicators. Denim patches were attached to various parts of the body to measure dermal exposure, except that hand rinses with 1:1 mixture of acetone and water were used to measure dermal exposure of the hands. Personal air monitoring samplers were used to collect air from the breathing zones of workers to measure inhalation exposure.

The highest route of exposure was found to be the dermal route, which is consistent with a great deal of other exposure data available to the Agency. Recoveries of EPN from spiked denim patches in the laboratory were about 90%, but no data were presented on the retentive and/or absorptive capacity of EPN by the patches under field conditions. The usual material for patches for purposes of measuring dermal exposure is miltiple layers of gauze or alpha-cellulose (Durham and Wolfe 1962). Therefore, it is conceivable that the reported dermal exposure may have been underestimated by the use of a single layer of denim. In addition, the published method for hand rinsing (Durham and Wolfe 1962) used 95% ethly alcohol rather than 50% acetone, so the reliability of these data is not clear. No data on urinary excretion of EPN or its p-nitrophenol metabolite were presented, so the Agency has no means available to estimate the actual rate of skin penetration of EPN.

In spite of these reservations about this study, the Agency believes that it represents the best information currently available on applicator exposure to EPN. In addition, the reported data are in some cases similar in magnitude to other data in the scientific literature on exposure (e.g., 1.18 mg/hr dermal exposure to pilots (Jegier 1964) compared with 0.64 mg/hr in Velsicol study). Accordingly, exposure data from the Velsicol study for those portions of the body which might normally be uncovered (back and front of neck, hands, and forearms) will be used to estimate dermal exposure. (Although label directions require that applicators wear protective clothing and respirators, information has recently come to the Agency's attention which indicates that at least some workers in some parts of the country may ignore these label directions to wear protective clothing because of hot weather (Letter 1978c).) Inhalation exposure values were estimated by using a breathing rate of 1.8 $m^3$/hr. The dermal and inhalation exposures for a 70-kg worker, calculated by the Agency from Velsicol's exposure data, are presented in Table 10 (Memo 1979c).

Table 10. Dermal and Inhalation Exposure to EPN of Applicators and Support Personnel During Application to Cotton

| Workers | Dermal Exposure (mg/kg per hr) | | Inhalation Exposure (mg/kg per hr) | |
|---|---|---|---|---|
| | High | Low | High | Low |
| Pilots (4)* | 0.009 | 0.0016 | 0.000023 | 0.000015 |
| Loaders (3)* | 0.026 | 0.0015 | 0.000032 | 0.000019 |
| Flaggers (3)* | 0.46 | 0.053 | 0.021 | 0.000025 |
| Ground Applicators (2)* | 0.028 | 0.0038 | 0.00012 | 0.000021 |

* Number of workers monitored. High and low exposure values are based on the highest and lowest exposures for the workers monitored.

* The Agency has also recieved an epidemiological study (DuPont 1979b) of workers in two DuPont plants where EPN is manufactured. This study, particularly the underlying medical data of the workers, is classified CONFIDENTIAL. The results of routine, as well as detailed, neurologic examinations performed on selected EPN workers who had the longest period of exposure (and thus the greatest likelihood of illness) did not reveal any findings of neurologic disease or deficit. DuPont pointed out that the levels of EPN in the monitoring studies at both plants were below OSHA's threshold limit value (TLV) for EPN of (0.5 mg/$m^3$. The Agency has not yet completed its review of this study; the Agency's analysis of this study will be included in Position Document 2/3. The Agency points out, however, that (assuming DuPont's data are correct) the results apply only to exposure in the manufacturing situation and not to exposure to the general population, applicators, or the environment from commercial or private use of EPN.

(c) *Conclusions.* The Agency makes the following observations about these exposure values:

(1) Based on an NOEL of 0.01 mg/kg per day, none of the high or low dermal exposure values present an ample margin of safety, for applicators chronically exposed;

(2) Based on an NOEL of 0.01 mg/kg per day, two of the high inhalation exposure values (for flaggers and ground applicators) do *not* present an ample margin of safety for applicators chronically exposed;

(3) Cumulative exposure to EPN through two or more routes of exposure (oral, dermal, inhalation) will not present an ample margin of safety in most situations (i.e., dermal + oral, dermal + inhalation, or high inhalation + oral); and

(4) The most restrictive instuctions appearing on the labeling of registered EPN products provide only that unprotected persons be kept away from treated areas where there is danger of drift. The Agency considers these instructions too vague to assure that the application of EPN does not occur close to unprotected persons, including those in contiguous fields and those in adjacent dwelling places and other structures. It is anticipated that some of these persons may be exposed to levels of EPN as high or higher than that to which applicators and support personnel may be exposed on the day of application. In addition, because EPN is applied several times during a growing season to certain crops, it follows that some people located near application sites may be exposed several times during the same time period.

The Agency is therefore issuing a rebuttable presumption against registration of all EPN products on the basis that applicators, support personnel, and unprotected bystanders may be exposed to levels of EPN which do not assure an ample margin of safety.

The Agency notes that Velsicol (1979) suggested several methods of reducing dermal and inhalation exposure to EPN. The Agency will consider these suggestions as possible regulatory options, if the presumption of risk against EPN is not rebutted. In addition, information has come to the Agency's attention (Letter 1978c) that some pesticide applicators in some areas, particularly during hot weather, may ignore label directions to wear protective clothing and/or respirators. The Agency requests registrants and other interested persons to submit any information they may have on whether such practice is common or widespread. The Agency also recognizes that there are other agricultural field workers (e.g., cotton scouts) who are likely to be exposed to EPN after application. The Agency requests registrants and other interested persons to submit any information they may have on this issue to the Agency.

(d) *Cumulative Exposure.* The Agency also notes that possible multiple exposure to several pesticides which cause delayed neurotoxicity could increase the total body burden and increase total risk from such exposure. Since there is insufficient information available on possible multiple exposure, the Agency is not now issuing a rebuttable presumption on this basis. The Agency does request registrants and other interested persons having information on possible multiple exposure to several neurotoxic pesticides to submit such data to the Agency. Specifically, the Agency requests information on whether those pesticides with which EPN is formulated may cause neurotoxic effects.

### *B. Acute Hazard to Wildlife: Aquatic Species*

40 CFR Section 162.11(a)(3)(i)(B)(3) provides that a "rebuttable presumption shall arise if a pesticide's (use) * * * (r)esults in a maximum calculated concentration following direct application to a 6-inch layer of water more than ½ the acute $LC_{50}$ for aquatic organisms representative of the organisms likely to be exposed as measured on test animals * * *."

EPN is registered for use by Mosquito Abatement Districts, Public Health Officials, and other trained personnel of Public Mosquito Control Programs as a mosquito larvicide (Memo 1978a). Recommended application rates for EPN as a mosquito larvicide are 0.05 to 0.1 pound active ingredient/acre using ground or aerial equipment. The higher rate is recommended in areas where mosquitoes have shown resistance to other organophosphates. Although two of the three EPN products registered for use as a larvicide may not, according to label directions, be used in lakes, ponds, streams, or other bodies of water, the label directions are not suffiently precise to assure that aquatic species will not be exposed. The label for the other larvicide product does not prohibit the application of this product to bodies of water.

Application of EPN at the lowest recommended rate for larvicidal uses (0.05 pounds AI/acre) will result in a concentration of 36.7 ppb in a 6-inch layer of water (Memo 1978a). This dosage will exceed ½ the $LC_{50}$ or TLm for all but one (bluegill sunfish) of the aquatic species listed in Table 11. Application at the highest recommended rate (0.1 pounds AI/acre) will result in a concentration of 73.4 ppb in a 6-inch layer of water (Memo 1978a), which exceeds ½ the $LC_{50}$ of the bluegill sunfish in addition to other listed species. Accordingly, the Agency is issuing a rebuttable presumption against all pesticide products containing EPN which are registered for direct application to water.

Table 11. Half LC-50 or TLm Values for Representative Aquatic Species Likely to be Exposed to EPN Mosquito Larvicide

| Species | Exposure Time/-Toxicity Parameter | Toxicity Value (ppb) | 1/2 Toxicity Value (ppb) | Reference |
|---|---|---|---|---|
| Juvenile striped bass (Morone saxatilis) | 96 hr/TLm[a/] | 60 | 30 | Korn and Earnest (1974) |
| spot (Leistomus xanthurus) | 96 hr/LC-50[b/] | 25.6 | 12.8 | Schimmel et al. (1978) |
| bluegill sunfish (Lepomis macrochirus) | 96 hr/LC-50 | 80 | 40[c/] | Letter (1977b) |
| Pinfish (Lagodon rhomboides) | 96 hr/LC-50 | 16.5 | 8.2 | Letter (1978) |
| scud (Gammarus lacustris) | 96 hr/LC-50 | 15 | 7.5 | Sanders (1969) |
| pink shrimp (Penaeus duorarum) | 96 hr/LC-50 | 0.29 | 0.15 | Schimmel et al. (1978) |
| daphnia (Daphnia magna) | 48 hr/LC-50 | 0.32 | 0.16 | Letter (1977b) |
| daphnia (Daphnia pulex) | 3 hr/TLm | 1.2 | 0.6 | Nishiuchi and Hashimoto (1967) |
| daphnia (Moina macrocopa) | 3 hr/TLm | 7.1 | 3.55 | Nishiuchi and Hashimoto (1967) |

a/ Median tolerance limit.
b/ Lethal concentration to 50% of the population
c/ Exceeds half toxicity value at 0.1 but not at 0.05 pounds/acre application rate.

**IV. Other relevant Adverse Effects**

EPN has been demonstrated to cause other adverse effects. However, these effects either occur at levels well above which humans may reasonably be anticipated to be exposed, taking into account an ample margin of safety, or are not sufficiently documented by the available data to warrant issuance of a presumption at this time. The Agency solicits any additional information which indicates that the use of EPN pesticides may result in the effects discussed below or any other adverse effects.

*A. Teratogenic and Muscular Effects*

On the thirteenth day of incubation, just prior to the appearance of cholinesterase, Khera et al. (1965) inoculated the yolk sacs of duck eggs with doses of 10 and 100 μg/egg of technical EPN dissolved in 0.1 ml of propylene glycol. Thirty-four percent of the ducklings hatched from eggs treated with 100 μg EPN were severely affected and displayed signs of asthenia and lethargy. Of these, 27% exhibited permanent malformations of the leg and foot involving axial rotation of one or both feet. Extreme cases exhibited talipes varus and talipes calcaneovarus, most often involving the metatarsophalangeal and phalangeal levels. Three of the ducklings (11%) hatched from eggs treated with 10 μg EPN exhibited malformations of the foot, but these malformations were transient.

A year later Khera et al. (1966) reported on the pathology of pre- and posthatched skeltal leg muscle and enzymatic alterations in embryonic thigh muscle in embryos of hatched ducklings inoculated via the yolk sac with 100 μg/egg of EPN dissolved in 0.1 ml of propylene glycol. X-ray studies indicated that the primary cause of talipes varus was not change in the leg bones when compared to controls. Rather, this malformation was found to be associated with dystrophic changes in the thigh and shank muscles. Cholinesterase was reported to be progressively inhibited at the motor end plates in the thigh skeletal muscle during embryogenesis.

Yamada (1973) demonstrated dyskinesia of the legs of male chicks incubated from eggs whose whites had been inoculated with 1 mg/egg to 20 mg/egg of 45% EPN emulsifiable concentrate (solvent(s) and inert component(s) undisclosed).

In addition to these studies, negative teratology studies have been reported by Upshall et al. (1968), Proctor et al. (1976), and Flockhart and Casida (1972).

*B. Cholinergic Effects*

EPN, like most organophosphates, inhibits the action of acetylcholinesterase (AChE). This inhibition results from an irreversible chemical reaction between EPN and the enzyme. The return of AChE activity occurs only as new enzyme is synthesized and may take days or months. The AChE inhibition prevents the breakdown of acetylcholine and results in a variety of cholinergic effects. Although the symptoms vary according to the dosage, some of the signs which may be expected include constriction of the iris sphincter and ciliary muscle in the eye; increased motor activity of the gastrointestinal tract; fibrillations, fasciculations, weakness, and eventual paralysis, at very high dosages, of the voluntary muscles; increased secretion of the various glands; and contraction of the bronchioles (Goodman and Gilman 1970).

In the previously cited study by Adou-Donia (1977); cholinergic signs were observed in hens fed EPN at dosages as low as 2.5 mg/kg per day immediately after administration. As expected, these symptoms disappeared upon administration of atropine. The author did not describe the exact nature of the signs observed.

Moeller and Rider (1962) administered daily oral doses of EPN to adult human male volunteers. Doses of 3, 6, and 9 mg EPN per day were administered to three groups of five subjects for up to 47 days. No clinical effects were oberved at any dose level. Those men receiving 9 mg per day (approximately 0.1 mg/kg per day), however, demonstrated a significant depression of plasma pseudocholinesterase and red blood cell cholinesterase activity. No such depression occurred at the two lower doses.

*C. Disorders of the Eye*

A few Japanese studies suggest that exposure to EPN can result in various eye disorders. In one study, Ishikawa et al. (1971) examined 71 children from an area of Japan where EPN and several other organophosphate pesticides were used. These researchers observed the following percentages of eye abnormalities in the subjects: reduced vision, 98%; narrowing of peripheral visual field, 95%; abnormal refraction, 88%; oculogyration disorder, 57%; pupillary disturbances, 52%; optic and retinochoroidal atrophy, 65%; accommodation paralysis, 12%; and nystagmus, 6%. The pathogenesis of these disturbances is not clearly described by the authors. It appears possible, however, that a combination of cholinergic effects, delayed neurotoxicity, and direct effects on the eye may be involved. It is impossible to draw any conclusions from this study about the possible hazards which might result from EPN use in the United States. First, the study does not indicate the extent of the children's exposure to EPN. In addition, the children were apparently exposed to several pesticides, and the routes of exposure are described only vaguely.

Other case histories (Ozawa et al. 1972) have been reported from Japan, indicating that persons exposed to EPN and other organophospate pesticides have developed opthalmic disorders similar to some of those described by Ishikawa et al. (1971).

*D. Possible Mutagenic Effects*

Amer and Ali (1969) demonstrated that lateral root cells of *Vicia faba* seedlings treated with *p*-nitrophenol (a metabolic breakdown product of EPN) produced a lengthened metaphase stage. This effect resulted in the accumulation of cells in the mitotic stage in treated seedlings greater than that seen in untreated plants.

Fahrig (1974) reported that *p*-nitrophenol showed weak genetic activity in a liquid holding test for mitotic gene conversion in *S. cerevisiae*. Four other tests on the mutagenic activity of *p*-nitrophenol were negative.

*E. Reductions in Populations of Nontarget Organisms*

Eckert (1950) reported that 50% of an undisclosed number of bees fed 0.02 cc of syrup containing 0.12 mg technical EPN died within 24 hours and that 50 bees exposed to 0.02 gram of a 27% EPN dust for five minutes were moribund within an hour.

In laboratory toxicity tests Anderson and Tuft (1952) found that confinement of bees in cages with bouquets of flowers (*Lippia lanceolata*) dusted with 2% EPN resulted in 100% mortality within five hours. In laboratory tests where direct application of 2% EPN to honeybees was made, the percentage mortality at 10, 20, 30, and 40 minutes was 5, 30, 90, and 100%, respectively. The authors rated EPN as highly toxic.

Anderson and Atkins (1967) measured the relative toxicity of 237 pesticides to honeybees in California from 1950 to 1966. EPN was categorized as highly toxic with an $LD_{50}$ contact toxicity value of less than 2μg/bee as determined by laboratory and field tests predominantly on alfalfa, cotton, peaches, citrus, ladino clover, and sweet corn.

Atkins et al. (1973) determined that the 48 hour $LD_{50}$ value of EPN to honey bees in laboratory tests was 0.245 μg/bee at 26.7° C (80° F) and 65 percent relative humidity.

Although the studies cited here indicate the extreme toxicity of EPN to honeybees, currently registered EPN products are required to print a warning of this hazard on the label (See Section II). Since the Agency does not know if current use patterns of EPN are likely to result in exposure of a significant number of bees to lethal concentrations of the pesticide, the Agency is not now presuming against EPN on this basis.

**V. Potentiation of Other Compounds by EPN**

Potentiation occurs when the observed effects of administering two or more compounds are greater than the sum of the effects when the individual chemicals are given alone (Fitzhugh 1966). Potentiation of the acute toxicity and cholinesterase depressive effect of malathion, dimethoate, and systox by EPN has been observed in the studies discussed below. Although all four chemicals do have certain use patterns in common, the Agency does not know if it is common practice in the United States to mix dimethoate, systox, or malathion with EPN, or if these pesticides are applied simultaneously or in quick succession. The Agency requests registrants and other persons with information on this matter to submit such information to EPA. If it appears that EPN is used in such a manner which results in simultaneous exposure to EPN and any of the other three pesticides, EPA will further evaluate the risks posed by potentiation to determine if labeling changes prohibiting or restricting such useage are warranted.

EPN is formulated in separate combination with parathion, methyl parathion, toxaphene and Guthion. However, the Agency has no data indicating whether EPN potentiates or is potentiated by any of these pesticides. The Agency requests registrants and any other persons possessing information on this matter to submit such data to the Agency.

*A. Malathion*

Potentiation between EPN and malathion in biological systems is well documented. Frawley et al. (1957) demonstrated that 1/40 of the $LD_{50}$ of malathion was lethal to rats and dogs by the oral route in the presence of subtoxic oral doses of EPN. Klaassen et al. (1959) found an oral $LD_{50}$ in male Swiss white mice of about 13% of the $LD_{50}$ of each compound separately. Similar results have been reported by several other workers (see Seume and O'Brien 1960a; Karczmar et al. 1962;

Casida et al. 1963; Kreitzer and Spann 1973; and Macek 1975).

Detoxification of malathion involves the hydrolysis of carboxyester or carboxyamide linkages by tissue or plasma aliesterases (also termed carboxylesterase). Some researchers believe that EPN potentiates malathion by inhibiting the aliesterases which normally detoxify malathion (Cook et al. 1958; Murphy and DuBois 1957; and Seume and O'Brien 1960b). However, not all observers agree on this mechanism and some inconsistencies with it have been noted (Bhagwat and Ramachandran 1975; Cohen and Murphy 1971; and Karczmar et al. 1962).

Although there are no registered products which contain both EPN and malathion, these chemicals do have many uses in common. These include use on apples, apricots, beans, beets, blackberries, boysenberries, cherries, citrus fruits, corn, dewberries, grapes lettuce, loganberries, nectarines, peaches, pears, pineapples, plums, quinces, raspberries, rutabagas, soybeans, spinach, strawberries, sugar beets, tomatoes, turnips, and various nuts. There is no definite evidence that these pesticides are used together in the United States. However, Komoto et al. (1973) reported that, according to agricultural practice in certain rice fields in Japan, malathion sprays are used from March 15 to May 15 and EPN from April 15 to June 15. Thus, from April 15 to May 15 EPN and malathion are used together in the rice fields.

*B. Dimethoate*

Uchida et al. (1966) found that ½ the $LD_{10}$ of EPN (11 mg/kg) and ½ the $LD_{10}$ of dimethoate (170 mg/kg) killed an average of 90% of mice in two trials when given simultaneously. For guinea pigs, the authors found that ½ the $LD_{10}$ of dimethoate (390 mg/kg) and ½ the $LD_{10}$ of EPN (14 mg/kg) killed an average of 24% ± 5% in five trials when given simultaneously. The authors concluded that the inhibition of the hepatic metabolism of dimethoate by EPN accounted for this synergistic activity.

Although there are no registered products which contain both EPN and dimethoate, these chemicals do have certain use patterns in common. These include use on apples, beans, cotton, grapes, pears, pecans, and tomatoes.

*C. Systox*

Williams et al. (1958), in a six-week dietary study, reported on the *in vivo* effects of a paired combination of EPN and Systox on serum and red blood cell cholinesterase levels in dogs. When levels of 2.0 ppm Systox and 20.0 ppm EPN were fed, and average depression in plasma cholinesterase to 44% of the pretreatment control occurred. This value is below the expected depression level, based on earlier studies, if the effect were additive. This indicates that EPN may potentiate the action of Systox in depressing plasma cholinesterase.

Although there are no registered products which contain both EPN and Systox, these chemicals do have certain use patterns in common. These include use on apples, apricots, beans, cottonseed, certain citrus fruits, grapes, peaches, pears, pecans, plums, strawberries, and tomatoes.

## VI. Data Gap

The Agency does not know of any studies which tested for the oncogenicity of EPN. To insure a more complete evaluation of the risks posed by EPN, the Agency also requests registrants or any other person having information relevant to the possible oncogenicity of EPN (including preliminary reports in progress) to submit such data to the Agency.

EPN: Position Document 1—References*


Abou-Donia, M. B., and D. G. Graham. 1978. Delayed neurotoxicity of 0-ethyl 0-4-nitrophenyl phenylphosphonothioate: subchronic (90 days) oral administration in hens. Toxicol. Appl. Pharmacol. 45:685–6700.

Abou-Donia, M. B., and S. H. Preissig. 1976. Delayed neurotoxicity of leptophos: toxic effects on the nervous system of hens. Toxicol. Appl. Pharmacol. 35:269–282.

Ahmed, M. K., J. E. Casida, and R. E. Nichols. 1958. Bovine metabolism of organophosphorus insecticides: significance of rumen fluid with particular reference to parathion. Agric. Food Chem. 6(10):740–746.

Aldridge, W. N., and J. M. Barnes. 1966. Further observations on the neurotoxicity of organophosphorous compounds. Biochem. Pharmacol. 15:541–548.

Amer, S. M., and E. M. Ali. 1969. Cytological effects of pesticides. IV. mitotic effects of some phenols. Cytologia 34:533–540.

Anderson, L. D., and E. L. Atkins, Jr. 1967. Toxicity of pesticides and other agricultural chemicals to honey bees. Univ. of California Agric. Extension Service, Riverside, California.

Anderson, L. D., and T. O. Tuft. 1952. Toxicity of several new insecticides to honey bees. J. Econ. Entomol. 45(3):466–469.

Atkins, E. L., E. A. Greywood, and R. L. Macdonald. 1973. Toxicity of pesticides and other agricultural chemicals to honey bees. Univ. of California Agric. Extension Service, Riverside, California.

Averell, P. R., and M. V. Norris. 1948. Estimation of small amounts of 0,0-diethyl 0,p-nitrophenyl thiophosphate. Analyt. Chem. 20(6):753–756.

Bhagwat, V. W., and B. V. Ramachandran. 1974. Determination of EPN, its oxygen analog, and p-nitrophenol in aqueous suspensions and enzymic digests. JAOAC 57(6):1288–1293.

Bhagwat, V. M., and B. V. Ramachandran. 1975. Malathion A and B esterases of mouse liver—II: effect of EPN *in vitro* and *in vivo*. Biochem. Pharmacol. 24:1727–1729.

Brodeur, J., and K. P. DuBois. 1963. Comparison of acute toxicity of anticholinesterase insecticides to weanling and adult male rates. Proc. Soc. Exp. Biol. Med. 114:509–511.

Carlson, G. P. 1972. Detoxification of foreign organic compounds by the quahaug, *Mercenaria mercenaria*. Comp. Biochem. Physiol. 43:295–302.

Casida, J. E., R. L. Baron, M. Eto, and J. L. Engel. 1963. Potentiation and neurotoxicity induced by certain organophosphates. Biochem. Pharmacol. 12:73–83.

Cavanagh, J. B. 1954. The toxic effects of triortho-cresyl phosphate on the nervous system: an experimental study in hens. J. Neurol. Neurosurg. Psychiat. 17:163–172.

CDC. Communicable Disease Center. Undated. Summary of investigations, January–June 1955. U.S. Dept. of Health, Education, and Welfare, Atlanta, Georgia.

Coffin, D. E., and W. P. McKinley. 1963. Determination of parathion, methyl parathion, EPN, and their oxons in some fruit and vegetable crops. JAOAC 46(2):223–228.

Cohen, S. D., and S. D. Murphy. 1071. Carboxylesterase inhibition as an indicator of malathion potentiation in mice. J. Pharmacol. Exp. Therap. 176(3): 733–742.

Cook, J. W., J. R. Blake, G. Yip, and M. Wiliams. 1958. Malathionase. I. activity and inhibition. JAOAC 41(2):399–407.

Du Pont. E. I. du Pont de Nemours and Company. 1977a. EPN: status of Du Pont research. Wilmington, Delaware. (Unpublished.) Confidential.

DuPont. E. I. DuPont de Nemours and Company. 1977b. EPN: status of DuPont research. Wilmington, Delaware. (Unpublished.) Confidential.

DuPont. E. I. DuPont de Nemours and Company. 1979a. EPN: status of DuPont research. Wilmington, Delaware. (Unpublished.) Confidential.

DuPont. E. I. DuPont de Nemours and Company. 1979b. EPN air sampling results at Chicago Heights and Mount Pleasant organic 1977–1978: survey of health records of EPN workers. Wilmington, Delaware. (Unpublished.) Confidential.

Durham, W. F., T. B. Gaines, and W. J. Hayes, Jr. 1956. Paralytic and related effects of certain organic phosphorus compounds. A.M.A. Arch. Indust. Health 13:328–330.

Durham, W. F., and H. R. Wolfe. 1962. Measurement of exposure of workers to pesticides. Bull. World Health Organ. 26:75–91.

Eckert, J. E. 1950. The toxicity of EPN insecticide to honey bees. Gleanings in Bee Culture 78(8):506–509, 516.


*Copies of references not designated confidential will be provided on request. There will be a charge to cover duplicating costs for such requests. A copy of the Position Document and all references not designated confidential are available for public inspection in the Special Pesticide Review Division (TS–791), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, Room 722, 401 M Street SW., Washington, D.C. 20460.

El-Sebae, A. H., S. A. Soliman, M. A. Elamayem, and N. S. Ahmed. 1977. Neurotoxicity of organophosphorus insecticides leptophos and EPN. J. Environ. Sci. Health B12(4):269–288.

EPA. U.S. Environmental Protection Agency, Human Effects Monitoring Branch. 1977. Estimated usage of EPN for 1974 by EPA regions, state and usage sector. (Unpublished.)

Fahrig, R. 1974. Comparative mutagenicity studies with pesticides. IARC Sci. Publ. 74(10):161–181.

FDA. U.S. Food and Drug Administration. Undated. Summary of pesticide residues found on domestic and import products, fiscal years 1972–1976. (Unpublished.)

Fitzhugh, O. G. 1966. Problems related to the use of pesticides. Canad. Med. Ass. J. 94:598–604.

Flockhart, I. R., and J. E. Casida. 1972. Relationship of the acylation of membrane esterases and proteins to the teratogenic action of organophosphorus insecticides and eserine in developing hen eggs. Biochem. Pharmacol. 21:2591–2603.

Frawley, J. P. 1976. Test protocols and limitations for detection of neurotoxicity. Pages 234–263 *in* R. L. Baron, ed., Pesticide induced delayed neurotoxicity: proceedings of a conference. U.S. Environmental Protection Agency, Washington, D.C.

Frawley, J. P., H. N. Fuyat, E. C. Hagan, J. R. Blake, and O. G. Fitzhugh. 1957. Marked potentiation in mammalian toxicity from simultaneous administration of two anticholinesterase compounds. J. Pharmacol. Exp. Therap. 121:96–106.

Gaines, T. B. 1969. Acute toxicity of pesticides. Toxicol. Appl. Pharmacol. 14(3):515–534.

Goodman, L. S., and A. Gilman, eds. 1970. The pharmacological basis of therapeutics, 4th ed. the Macmillan Company, New York.

Henderson, C., and Q. H. Pickering. 1957. Toxicity of organic phosphorus insecticides to fish. Trans. Amer. Fish. Soc. 87:39–51.

Hill, E. F., R. G. Heath, J. W. Spann, and J. D. Williams. 1975. Lethal dietary toxicities of environmental pollutants to birds. Special Scientific Report—Wildlife No. 191. U.S. Fish and Wildlife Service, U.S. Dept. of the Interior, Washington, D.C.

Hodge, H. C., E. A. Maynard, L. Hurwitz, V. DiStefano, W. L. Downs, C. K. Jones, and H. J. Blanchet, Jr. 1954. Studies of the toxicity and of the enzyme kinetics of ethyl p-nitrophenyl thionobenzene phosphonate (EPN). J. Pharmacol. Exp. Therap. 112(1): 29–39.

Industrial Biotest Laboratories, Inc. 1976. IBT No. 8580–08633: Neurotoxicity study with EPN technical in chickens. Northbrook, Illinois. (Unpublished.) Confidential.

Ishikawa, S., K. Inaba, M. Naito, and K. Ohto. 1971. Eye disease induced by organic phosphorus insecticides. (Transl. from Japanese.) Nippon Ganka Gakkai Zasshi [Acta Soc. Ophtahamol. Japan] 75 (Suppl. 1): 841–855.

Jegier, Z. 1964. Health hazards in insecticides spraying crops. Arch. Environ. Health 8:670–673.

Johnson, M. K. 1974. The primary biochemical lesion leading to the delayed neurotoxic effects of some organophosphorus esters. J. Neurochem. 23:785–789.

Johnson, M. K. 1975. The delayed neuropathy caused by some organophosphorus esters: mechanism and challenge. CRC Crit. Rev. Toxicol. 4:289–316.

Kaneko, L., and S. Sakamoto. 1976. Interim report of neurotoxicity study with EPN in adult hens. Nissan Chemical Industries, Ltd., [Tokyo, Japan]. (Unpublished.) Confidential.

Karczmar, A. G., O. Awad, and K. Blachut. 1962. Toxicity arising from joint intravenous administration of EPN and malathion to dogs. Toxicol. Appl. Pharmacol. 4:133–147.

Khera, K. S., Q. N. LaHam, and H. C. Grice. 1965. Toxic effects in ducklings hatched from embryos inoculated with EPN or Systox. Fd. Cosmet. Toxicol. 3:581–586.

Khera, K. S., Q. N. LaHam, C. F. G. Ellis, Z. Z. Zaiidzka, and H. C. Grice. 1966. Foot deformity in ducks from injection of EPN during embryogenesis. Toxicol. Appl. Pharmacol. 8:540–549.

Kirkland, J. J., and H. L. Pease. 1967. Determination of ethyl-p-nitrophenylthionobenzene phosphonate (EPN) residues by electron-capture gas chromatography. J. Agr. Food Chem. 15(1):187–191.

Klaassen, H. E., G. F. Krause and C. C. Roan. 1959. Some possible effects of malathion and EPN on mice. J. Kansas Entomol. Soc. 32(4):183–188. Komoto, M., N. Kikuchi, and Y. Fukami. 1973. On the cases which seemed to be intoxication due to pesticides accompanied with myopathy. (Transl. from Japanese.) Rinsho Ganka [Japan J. Clin. Ophthalmology] 27(6):751–755.

Korn, S., and R. Earnest. 1974. Acute toxicity of twenty insecticides to striped bass, *Morone saxatilis*. Calif. Fish and Game 60(3):128–131.

Kreitzer, J. F., and J. W. Spann. 1973. Tests of pestidical synergism with young pheasants and Japanese quail. Bull. Environ. Contam. Toxicol. 9(4):250–256.

Laski, R. R. 1974. Collaborative study of a method for organophosphorus pesticide residues in apples and green beans. JAOAC 57(4):930–933.

Letter. 1977a. [untitled], dated September 20, 1977. From Robert L. Metcalf, Dept. of Entomology, Univ. of Illinois at Urbana-Champaign, to Mr. Richard Bright, U.S. Environmental Protection Agency. Confidential.

Letter. 1977b. Re: EPN, dated February 7, 1977. From Thomas R. Loy, Velsicol Chemical Corp., to Mr. Ronald E. Dreer, Acting Director, Office of Special Pesticide Reviews. Confidential

Letter. 1977c. [untitled], dated August 16, 1977. From B. M. Francis, Institute for Environmental Studies, Univ. of Illinois at Urbana-Champaign, to Dr. Kuroda, Environmental Protection Agency.

Letter. 1978a. [untitled], dated January 11, 1978. From Steven C. Schimmel, Environmental Protection Agency, Gulf Breeze, Fla., to Ms. Joanne Edwards, [Office of Special Pesticide Reviews].

Letter. 1978b. [untitled], dated February 8, 1978. From Steven C. Schimmel, Environmental Protection Agency, Gulf Breeze, Fla., to Ms. Joanne Edwards, [Office of Special Pesticide Reviews].

Letter. 1978c. [untitled], dated May 1, 1978. From Prof. Norman B. Akesson, Dept. of Agricultural Engineering, Univ. of Calif., Davis, to Dr. Dotta [*sic*], Office of Pesticide Programs, U.S. Environmental Protection Agency.

Macek, K. J. 1975. Acute toxicity of pesticide mixtures to bluegills. Bull. Environ. Contam. Toxicol. 14(6): 648–652.

Meister, R. T., ed. 1977. Farm chemicals handbook. Meister Pub. Co., Willoughby, Ohio.

Memo. 1976. Pesticide episode information on EPN (letter report #9), dated December 23, 1976. From T. O. Miller, Pesticide Episode Response Team, to Richard Bright, Office of Special Pesticide Reviews.

Memo. 1977. Environmental monitoring data on EPN (041801) for the reregistration process, dated May 6, 1977. From F. W. Kutz, Ecological Monitoring Branch, to Mr. John M. Carley, Reregistration Section.

Memo. 1978a. Concerning EPN mosquito-larvicide use, dated January 1, 1978. From Richard Bright and Joanne Edwards, Office of Special Pesticide Reviews, to File.

Memo. 1978b. Request for monitoring data on EPN (041801), dated January 24, 1978. From Frederick W. Kutz, Ecological Monitoring Branch, to Mr. Richard Bright, Office of Special Pesticide Reviews.

[Memo. 1978c. reference deleted.]

Memo. 1978d. California EPN usage data, dated March 10, 1978. From Jerome Blondell, Human Effects Monitoring Branch, to Richard Bright, Project Director, Special Pesticide Review Division.

Memo. 1979a. Monitoring for residues of EPN in agricultural commodities, dated July 19, 1979. From Alan P. Nielsen, Agronomist, Health Effects Branch, to Frank Parsons, Branch Chief, Special Pesticide Review Division.

Memo. 1979b. EPN, comments on dietary exposure section of Position Document #1, dated August 8, 1979. From Chemist, Residue Chemistry Branch, Hazard Evaluation Division, to Patrick Miller, Project Manager, Special Pesticide Review Division.

Memo. 1979c. Velsicol exposure study, dated July 26, 1979. From Chemists, Environmental Fate Branch, to Project Manager, Special Program [*sic*] Review Division.

Menn, J. J. 1971. Terminal residues of phosphonate insecticides. Page 57 ff *in* IUPAC, Pesticide terminal residues. Pergamon Press, Elmsford, N.Y.

Moeller, H. C., and J. A. Rider. 1962. Plasma and red blood cell cholinesterase activity as indications of the threshold of incipient toxicity of ehtyl-*p*-nitrophenyl thionobenzenephosphonate (EPN) and malathion in human beings. Toxicol. Appl. Pharmacol. 4:123–130.

MSCL. Mississippi State Chemical Laboratory. 1977. Mississippi epidemiolgic studies program: annual report #9. Mississippi State University.

Murphy, S. D., and K. P. DuBois. 1957. Quantitative measurement of inhibition of the enzymatic detoxification of malathion by EPN (ethyl p-nitrophenol thionobenzenephosphonate). Proc. Soc. Exp. Biol. Med. 96:813–818.

Nakatsugawa, T. N. M. Tolman, and P. A. Dahm. 1968. Degradation and activation of parathion analogs by microsomal enzymes. Biochem. Pharmacol. 17:1517–1528.

Neal, R. A., and K. P. DuBois. 1965. Studies on the mechanism of detoxification of cholinergic phosphorothionates. J. Pharmacol. Exp. Therap. 148(2):185–192.

Nishiuchi, Y., and Y. Hashimoto. 1967. Toxicity of pesticide ingredients to some fresh water organisms. Bochu-Kagaku 32(1):5–11.

Nissan Chemical Industries, Ltd. Undated. Technical manual of EPN. Tokyo, Japan.

Nomeir, A. A., and W. C. Dauterman. Undated. Studies on the optical isomers of EPN and EPNO. (Submitted to Pest. Biochem. Physiol.)

Ohkawa. H., N. Mikami, Y. Okuno, and J. Miyamoto. 1977. Stereospecificity in toxicity of the optical isomers of EPN. Bull. Environ. Contam. Toxicol. 18(5):534–540.

Osburn, M. R., L. H. Dawsey, and D. W. Woodham. 1960. Insecticide residues on forage under sprayed pecan trees. J. Econ. Entomol. 53(5):719–721.

Ozawa, T. M. Takase, and S. Manabe. 1972. Three cases of ophthalmological disorders possibly induced by organic phosphorus insecticides. (Transl. from Japanese.) Tieshin Igaku [Med. J. Commun.] 24(1):27–29.

Palmer, J. S. 1974. Toxicologic evaluation of O-ethyl O-(*p*-nitrophenyl) phenlyphosphonthioate in cattle and sheep. J. Amer. Vet. Med. Ass. 164(9):936–938.

Proctor, N. H., A. D. Moscioni, and J. E. Casida. 1976. Chicken embryo NAD levels lowered by teratogenic organophosphorus and methylcarbamate insecticides. Biochem. Pharmacol. 25:757–762.

Radeleff, R. D., and G. T. Woodard. 1957. The toxicity of organic phosphorus insecticides to livestock. J. Am. Vet. Med. Assoc. 130:215–216.

Sakamoto, T. 1977. Delayed neurotoxicity test of EPN administered orally to chickens for 28 days. Nissan Chemical Industries Ltd., Tokyo, Japan. (Unpublished.) Confidential

Sanders, H. O. 1969. Toxicity of pesticides to the crustacean *Gammarus lacustris.* Bureau of Sport Fisheries and Wildlife, No. 25. pp. 2–4.

Schafer, E. W. 1972. The acute oral toxicity of 369 pesticidal, pharmaceutical and other chemicals to wild birds. Toxicol. Appl. Pharmacol. 21:315–330.

Schimmel, S. C., J. M. Patrick, Jr., and A. J. Wilson, Jr. 1976. Acute toxicity of EPN to pink shrimp and spot. [U.S. Environmental Protection Agency, Gulf Breeze, Fla.] (Unpublished.)

Seume, F. W., and R. D. O'Brien. 1960a. Potentiation of the toxicity to insects and mice of phosphorothionates containing carboxyester and carboxyamide groups. Toxicol. Appl. Pharmacol. 2:495–503.

Seume, F. W., and R. D. O'Brien. 1960b. Metabolism of malathion by rat tissue preparations and its modification by EPN. Agric. Food Chem. 8(1):38–41.

Shafik, T. M., C. Morgade, and A. Barquet. 1976. Storage and excretion of halogenated and non-halogenated organophosphorus pesticides in animals and man [EPA Grant #804353 01]. U.S. Environmental Protection Agency. (Unpublished.)

Shim, J. C., and L. S. Self. 1973. Toxicity of agricultural chemicals to larvivorous fish in Korean rice fields. Trop. Med. 15(3):123–130.

Smith, M. I., E. W. Engel, and E. F. Stohlman. 1932. Further studies on the pharmacology of certain phenol esters with special reference to the relation of chemical constitution and physiologic action. NIH Bulletin 160:1–53.

Suzuki, Y. 1973. Toxicological study of ethyl-p-nitrophenyl-phosphonothioate (EPN) in rats, with special reference to the toxicity criteria for the determination of its residual toxicity in food. Toho Igakkai Zasshi [J. Med. Soc. Toho Japan] 20(½):126–144.

Terriere, L. C., and D. W. Ingalsbe. 1953. Translocation and residual action of soil insecticides. J. Econ. Entomol. 46(5):751–753.

Tucker, R. K., and M. A. Haegele. 1971. Comparative acute oral toxicity of pesticides to six species of birds. Toxicol. Appl. Pharmocol. 20:57–65.

Uchida, T., J. Zschintzsch, and R. D. O'Brien. 1966. Relation between synergism and metabolism of dimethoate in mammals and insects. Toxicol. Appl. Pharmacol. 8:259–265.

Upshall, D. G., J. C. Roger, and J. E. Casida. 1968. Biochemical studies on the teratogenic action of bidrin and other neuroactive agents in developing hen eggs. Biochem. Pharmacol. 17:1529–1542.

USDA. U.S. Department of Agriculture. 1968a. PR Notice 68–6. Loose-leaf pub. 14 pp.

USDA. U.S. Department of Agriculture. 1968b. PR Notice 68–8. Loose-leaf pub. 5 pp.

USDA. U.S. Department of Agriculture. 1968c. PR Notice 68–19. Loose-leaf pub. 2 pp.

Velsicol. Velsicol Chemical Corp. 1979. Exposure monitoring of applicators and support personnel to EPN. Chicago, Illinois. (Unpublished.)

Williams, M. W., H. N. Fuyat, J. P. Frawley, and O. G. Fitzhugh. 1958. In vivo effects of paired combinations of five organic phosphate insecticides. Agric. Food Chem. 6(7):514–516.

Witter, R. F., and T. B. Gaines. 1963. Relationship between depression of brain or plasma cholinesterase and paralysis in chickens caused by certain organic phosphorus compounds, Biochem. Pharmacol. 12:1377–1386.

Wolfenbarger, D. A., R. L. McGarr, R. R. Longoria, and J. B. Nosky. 1970. Toxicity of EPN, accothion, and certain chlorinated hydrocarbons to certain cotton insects. J. Econ. Entomol. 63(5):1568–1573.

Yamada, A. 1973. Malformation of chick embryo due to organophosphoric pesticides especially on the cervical vertebra due to parathion. (Transl. from Japanese.) Seikatsu Eisei [J. Urb. Living Health Assoc.] 17(5):144–150.

BILLING CODE 6560-01-M

**** PRODUCT SEARCH LISTING **** PAGE 1

08/08/79 FEDERALLY REGISTERED PRODUCTS CONTAINING EPN

**********

*REGISTRANT* *NAME AND ADDRESS*

* 000279 FMC CORP.
AGRICULTURAL CHEMICAL GROUP 2152996503
2000 MARKET STREET
PHILADELPHIA, PA. 19103

********** PRODUCT NAME **********

**02626* NIAGARA EPN 2 GRANULAR INSECTICIDE CODE 2760

**02650* NIAGARA EPN 4 EC INSECTICIDE CODE: 30063

**02675* NIAGARA EPN 25 WETTABLE POWDER CODE* 2749

**02898* NIAGARA EPN 4 GRANULAR CODE 3138

**********

*REGISTRANT* *NAME AND ADDRESS*

* 000352 E.I. DUPONT DE NEMOURST COMPANY
PRODUCT REGISTRATION-BIOCHEMICAL DEPT 3027749603
1007 MARKET STREET
WILMINGTON, DE 19898

********** PRODUCT NAME **********

**00338* DU PONT EPN TECHNICAL

**********

*REGISTRANT* *NAME AND ADDRESS*

* 000449 TECHNE CORPORATION
C/O REGULATORY AFFAIRS DEPT, FARMLAND IN8164596637
P. O. BOX 7305
KANSAS CITY, MO 64116

********** PRODUCT NAME **********

**00516* SURE DEATH BRAND WEAPON 2G

**00517* SURE DEATH BRAND WEAPON 4-E

**** PRODUCT SEARCH LISTING **** PAGE

08/08/79 FEDERALLY REGISTERED PRODUCTS CONTAINING EPN

**********

*REGISTRANT* *NAME AND ADDRESS*

* 000769 WOOL FOLK CHEMICAL WORKS, INC.
9198255511
P.O. BOX 938
FT. VALLEY, GEORGIA 31030

********** PRODUCT NAME **********

**00276* SECURITY BRAND E P N 25W

**00359* SECURITY EPN-5 EC

**00376* SECURITY POWERTOX COTTON SPRAY

**00382* EPN-SULPHUR 1 1/2 PEACH SPRAY 6

**00431* SECURITY METHYL PARATHION-EPN 4-2 COTTON SPRAY

**00447* SECURITY SUPER-TOX COTTON SPRAY 4-3-1

**********

*REGISTRANT* *NAME AND ADDRESS*

* 000876 VELSICOL CHEMICAL CORP
3126704500
341 EAST OHIO STREET
CHICAGO IL 60611

********** PRODUCT NAME **********

**00234* VELSICOL BARBICADE EMULSIFIABLE CONCENTRATE INSECTICIDE

**00235* TECHNICAL EPN FOR FORMULATIONS OF INSECTICIDES

**00328* TIFCHEM EPN

**** PRODUCT SEARCH LISTING **** PAGE

08/08/79 FEDERALLY REGISTERED PRODUCTS CONTAINING EPN

| REGISTRANT | NAME AND ADDRESS | |
|---|---|---|
| 001029 | AIDEX CORPORATION<br>I-29 & HWY 370<br>COUNCIL BLUFFS, IOWA 51501 | 7123662441 |

PRODUCT NAME

00055 AIDEX E P N-4E

00066 AIDEX EPN 2 GRANULAR

00078 AIDEX EPN 4 GRANULAR INSECTICIDE

| REGISTRANT | NAME AND ADDRESS | |
|---|---|---|
| 001339 | COTTON STATES CHEM CO INC<br>P O DRAWER 157<br>W MONROE LA 71291 | 3183864271 |

PRODUCT NAME

00219 MEPN 33

00220 MEPN 42

| REGISTRANT | NAME AND ADDRESS | |
|---|---|---|
| 001842 | TRIANGLE CHEMICAL COMPANY<br>BOX 4528<br>MACON GA 31208 | 9127431548 |

PRODUCT NAME

00264 TRIANGLE EPN-5EC

00265 TRIANGLE 3-3

08/08/79 FEDERALLY REGISTERED PRODUCTS CONTAINING EPN

**CONTINUE REGISTRANT 001842

**00267* TRIANGLE EPN 25% W/P

**00268* TRIANGLE BIG "6"

**********

*REGISTRANT* *NAME AND ADDRESS*

* 002169 PATTERSON CHEMICAL COMPANY INC
8168428211
1400 UNION AVE
KANSAS CITY, MO 64101

********** PRODUCT NAME **********

**00186* PATTERSON'S EPN WETTABLE POWDER

**********

*REGISTRANT* *NAME AND ADDRESS*

* 002393 HOPKINS AGRICULTURAL CHEMICALS
RESEARCH,CHEMISTRY & REGULATORY COMPL. 6082220624
537 ATLAS AVE. PO BOX 7532
MADISON, WI 53707

********** PRODUCT NAME **********

**00219* HOPKINS 2% EPN GRANULES

**00232* HOPKINS4%EPN GRAN./INSECT. FOR CONTROL OF EUROPEAN CORN BORER

**********

*REGISTRANT* *NAME AND ADDRESS*

* 002737 PUEBLO CHEMICAL & SUPPLY COMPANY
BOX 1279 - 2200 W. ST. JOHN
GARDEN CITY, KS 67846

********** PRODUCT NAME **********

**** PRODUCT SEARCH LISTING **** PAGE

06/08/79 FEDERALLY REGISTERED PRODUCTS CONTAINING EPN

**CONTINUE REGISTRANT 002737

**00017* SURE KILL EPN EMULSIFIABLE CONCENTRATE

*REGISTRANT* *NAME AND ADDRESS*

* C02749 ACETO CHEMICAL COMPANY INC
AGRICULTURE DIV. 2126962300
126-02 NORTHERN BLVD
FLUSHING NY 11368

********** PRODUCT NAME **********

**00129* ENPP TECHNICAL

*REGISTRANT* *NAME AND ADDRESS*

* 002935 WILBUR ELLIS CO.
2092261811
191 N SHAW AVENUE SUITE #107
FRESNO, CA 93704

********** PRODUCT NAME **********

**00337* RED TOP EPN 4 MOSQUITOCIDE

**00346* RED-TOP EPN 4 SPRAY

**00340* RED-TOP TRION 6 SPRAY

*REGISTRANT* *NAME AND ADDRESS*

* 003442 USS AGRI-CHEMICALS DIV US STEEL CORP
PO BOX 1685
ATLANTA GA 30301

********** PRODUCT NAME **********

**** PRODUCT SEARCH LISTING **** PAGE 6

F/C&/79 FEDERALLY REGISTERED PRODUCTS CONTAINING EPN

**CONTINUE REGISTRANT 003442

**00681* USS EPN TECHNICAL

**00690* USS EPN 5EC

**00691* USS EPN-METHYL PARATHION 2-4 EC

**00694* USS EPN METHYL PARATHION 3-3 EC

*REGISTRANT* *NAME AND ADDRESS*

* 005005 HELENA CHEMICAL CO
CLARK TOWER SUITE 3200 9017610050
5100 POPLAR AVE
MEMPHIS TN 38137

**************** PRODUCT NAME ****************

**00085* HELENA BRAND MILAN

**00101* HELENA 2 LB. EPN EMULSIFIABLE INSECTICIDE CONCENTRATE

**00107* HELENA MENTHYL EPN 42

**00123* HELENA BRAND PECAN SPRAY

**00134* HELENA BRAND EPN 2-E EMULSIFIABLE INSECTICIDE CONCENTRATE

**00171* HELENA BRAND 2% EPN INSECTICIDE

**00174* HELENA BRAND E P N 4-E

**00181* HELENA BRAND 4% EPN

**00191* HELENA 6 TOX-2 EPN

**00195* HELENA TRIPLE KILL T

**00349* HELENA PECAN SPRAY EMULSIFIABLE INSECTICIDE CONCENTRATE

**** PRODUCT SEARCH LISTING **** PAGE 7

09/08/79 FEDERALLY REGISTERED PRODUCTS CONTAINING EPN

**********

*REGISTRANT* *NAME AND ADDRESS*

* 006735 TIDE PRODUCTS INC
ATTN:M.W. MARSH 5123834901
BOX 1020
EDINBURG, TEXAS 78539

********** PRODUCT NAME **********

**00142* TIDE EPN 4-E

**00154* BUDMOR 42

**********

*REGISTRANT* *NAME AND ADDRESS*

* 007173 CHEMPAR CHEMICAL COMPANY INC
2128873990
60 EAST 42ND ST
NEW YORK, N.Y. 10016

********** PRODUCT NAME **********

**00090* CHEMPAR F-PHENYL TECHNICAL INSECTICIDE

**********

*REGISTRANT* *NAME AND ADDRESS*

* 006934 RING AROUND PRODUCTS INC
PO BOX 589
MONTGOMERY AL 36101

********** PRODUCT NAME **********

**00086* RING AROUND BRAND EPN EMULSIFIABLE INSECTICIDE

**00087* RING AROUND BRAND EPN-G 210

**00088* RING AROUND BRAND 4-2-0

**** PRODUCT SEARCH LISTING **** PAGE 6

08/08/79 FEDERALLY REGISTERED PRODUCTS CONTAINING EPN

**********

*REGISTRANT* *NAME AND ADDRESS*

* 009566 MARUBENI-IIDA AMERICA INC
200 PARK AVE
NEW YORK NY 10017

********** PRODUCT NAME **********

**00002* EPN TECHNICAL 80

**********

*REGISTRANT* *NAME AND ADDRESS*

* 009779 RIVERSIDE CHEMICAL COMPANY
TERRA SOUTHERN CORPORATION 9017678810
P.O. BOX 171376 & RIDGEWAY LOOP RD
MEMPHIS, TENNESSEE 38117

********** PRODUCT NAME **********

**00031* RIVERSIDE RAIDER 33

**00032* RIVERSIDE EPN 4

**00131* RIVERSIDE RAIDER 42 EMULSIFIABLE CONCENTRATE

**00213* RIVERSIDE PECAN INSECTICIDE

**********

*REGISTRANT* *NAME AND ADDRESS*

* 010673 REDDER CHEMICALS LTD
9123822702
WEST WIND BLDG-P.O. BOX 1092
GRAND CAYMAN- WEST INDIES 00000

********** PRODUCT NAME **********

**00027* EPN-2 METHLY PARATHION-4

**00032* 6-2 TOXAPHENE-EPN

**** PRODUCT SEARCH LISTING **** PAGE

08/08/79 FEDERALLY REGISTERED PRODUCTS CONTAINING EPN

**CONTINUE REGISTRANT 010873

**C0034* EPN - 3 METHYL PARATHION - 3

*REGISTRANT* *NAME AND ADDRESS*

* 012130 FARM CHEMICALS INC
PO BOX 456
ABERDEEN NC 28315

****************** PRODUCT NAME ******************

**00009* FARM CHEM EPN METHYL 24

**00010* FARMCHEM EPN-METHYL 3-3

*REGISTRANT* *NAME AND ADDRESS*

* 015166 APOLLO ENTERPRISES INC
ROUTE 1
ALTHEIMER AR 72004

****************** PRODUCT NAME ******************

**00007* 3-3 EMULSIFIABLE INSECTICIDE CONCENTRATE

**00010* METHYL-EPN 42 EMULSIFIABLE CONCENTRATE

*REGISTRANT* *NAME AND ADDRESS*

* 025030 P F C SERVICES
P.O. BOX 500
MADISON,MS. 39110

****************** PRODUCT NAME ******************

08/06/79 FEDERALLY REGISTERED PRODUCTS CONTAINING EPN

**CONTINUE REGISTRANT 025030

**00007* RED PANTHER EPN-MP EMULSIFIABLE CONCENTRATE

**00009* TWIN-KILL EPN-MP 2-4 EMULSIFIABLE CONCENTRATE

**** PRODUCT SEARCH LISTING **** PAGE 1

09/08/79 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING EPN

**********

*REGISTRANT* *NAME AND ADDRESS*

* 002737 PUEBLO CHEMICAL & SUPPLY COMPANY
BOX 1279 - 2200 W. ST. JOHN
GARDEN CITY, KS 67846

********** PRODUCT NAME **********

**09563* EPN

**********

*REGISTRANT* *NAME AND ADDRESS*

* 004841 MICRO CHEMICAL CO.
3184359738
BOX 711
WINNSBORO LA 71295

********** PRODUCT NAME **********

**06123* MICRO TRIPLE-KILL EMF 5 DUST

**06126* MICRO TRIPLE-KILL "EMF" DUST

**06165* MICRO BLEND 33

**06166* MICRO BLEND 24

**********

*REGISTRANT* *NAME AND ADDRESS*

* 005967 MOYER CHEMICAL COMPANY
40P297808B
BOX 945
SAN JOSE CA 95106

********** PRODUCT NAME **********

**05161* THIOPHEN 25-W

**** PRODUCT SEARCH LISTING **** PAGE

08/08/79 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING EPN

**********

*REGISTRANT* *NAME AND ADDRESS*

* 007001 OCCIDENTAL CHEMICAL CO
2098582511
P O BOX 198
LATHROP, CA 95330

********** PRODUCT NAME **********

**07720* EPN 4 EC

**********

*REGISTRANT* *NAME AND ADDRESS*

* 009779 RIVERSIDE CHEMICAL COMPANY
TERRA SOUTHERN CORPORATION 9017678810
P.O. BOX 171376 & RIDGEWAY LOOP RD
MEMPHIS, TENNESSEE 38117

********** PRODUCT NAME **********

**04760* RIVERSIDE RAIDER 33

**********

*REGISTRANT* *NAME AND ADDRESS*

* 015575 SOUTHLAND AGRICULTURAL CHEMICAL COMPANY
PO BOX 6207
MONTGOMERY AL 36106

********** PRODUCT NAME **********

**05331* SUPER KILL 4-2

**05337* 4-3-1 COTTON SPRAY

[FR Doc. 79-28289 Filed 9-18-79; 8:45 am]
BILLING CODE 6560-01-C

Federal Register

Wednesday
September 19, 1979

Part III

# National Aeronautics and Space Administration

Privacy Act; Systems of Records; Annual Publication

# NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

(Notice 79-76)

## Privacy Act of 1974

In accordance with 5 U.S.C. 552a(e)(4) of the Privacy Act of 1974 (Pub. L. 93-579), the National Aeronautics and Space Administration hereby publishes the systems of records currently maintained by the agency.

Robert F. Allnutt,
*Associate Deputy Administrator.*

TABLE OF CONTENTS



### NASA 10ACMQ

System name: Aircraft Crewmembers Qualifications and Performance Records - NASA

System location: Locations 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, and 12 as set forth in Appendix A.

Categories of individuals covered by the system: Crewmembers of NASA aircraft.

Categories of records in the system: System contains: (1) record of qualification, experience, and currency, e.g., flight hours (day, night, and instrument), types of approaches and landings, crew position, type aircraft, flight check ratings and related examination results, training performed and medical records; (2) flight itineraries and passenger manifests; and (3) biographical information.

Authority for maintenance of the system: 42 U.S.C. 2473 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for; evaluation of crewmember performance by supervisory flight operations personnel and staff; by the individuals whose records are maintained; on occasion by flight operations and safety survey teams; and by the NASA Aircraft Office. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) In cases of accident investigations, access to this system of records may be granted to federal or local agencies such as Department of Defense, Federal Aviation Administration, National Transportation Safety Board, or foreign governments; (2) To other agencies, companies, or governments requesting qualifications of crewmembers prior to authorization to participate in their flight programs; or to other agencies, companies, or governments whose crewmembers may participate in NASA's flight programs; (3) With prior approval by the individual - publicity or press releases; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, charts, punched cards, computer printouts.

Retrievability: Records are indexed by name or aircraft number.

Safeguards: Records are protected in accordance with the requirements and procedures which appear at 14 C.F.R. Part 1212.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Chief, Aircraft Office, Location 1.

Subsystem Managers: Chief, Aircraft Operations Division, Location 2; Director, Flight Operations, Location 3; Chief, Aircraft Operations Division, Location 5; Chief, Aircraft Operations Section, Location 6; Chief, Operations Branch, Flight Research Division, Location 7; Chief, Aircraft Operations Branch, Location 8; Chief, Aircraft Operations, Location 9; Chief Contract Management, Location 10; Data Acquisition Manager, Earth Resources Laboratory, Location 11; Chief, Aeronautical Programs Branch, Location 12 (Locations are set forth in Appendix A).

Notification procedure: Information may be obtained from the cognizant system or subsystem manager listed above.

Record access procedures: Requests from individuals should be addressed to: Same address as stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Individuals, training schools or instructors, medical units or doctors.

### NASA 10BRPA

System name: Biographical Records for Public Affairs - NASA

System location: Locations 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, and 12 as set forth in Appendix A.

Categories of individuals covered by the system: Principal and prominent management and staff officials, program and project managers, scientists, engineers, speakers, other selected employees involved in newsworthy activities, and other participants in agency program.

Categories of records in the system: Current biographical information about the individual with a recent photograph when available. Data items are those generally required by NASA or the news media in preparing news or feature stories about the individual and/or his activity with NASA.

Authority for maintenance of the system: 42 U.S.C 2473 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is compiled, updated, and maintained at NASA installations for ready reference material and for immediate availability when required by the news media for news stories about the individual generally involving his participation in a major NASA activity.

The data serves as background information about the individual and is used within NASA to prepare public appearance announcements of key officials, speaking engagements, special appointments, participation in professional societies, etc.; to write news stories about special achievements, awards, participation in major NASA activities, programs, etc.; and to prepare responses to inquiries submitted to the Office of Public Affairs from the news media.

Users are the staff members of the public information office within each office of Public Affairs.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: these records are made available to professional societies, civic clubs, industrial and other organizations, news media representatives, researchers, authors, Congress, other agencies and other members of the public in connection with NASA public affairs activities.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records are maintained in file folders.

Retrievability: Records are indexed by name.

Safeguards: Since the records are a matter of public information, no safeguard requirements are necessary.

Retention and disposal: Records are maintained as long as there is potential public interest in them and are disposed of when no longer required.

System manager(s) and address: Head, Public Information Section, Location 1.

Subsystem Managers: The Public Affairs Officer at Locations 2, 3, 4, 5, 6, 7, 8, 9, 11, and 12 as set forth in Appendix A.

Notification procedure: An individual desiring to find out if a Biographical System of Records contains a record pertaining to him should call, write, or visit the Office of Public Affairs at the appropriate NASA location.

Record access procedures: An individual may request access to his record by calling, writing, or visiting the Office of Public Affairs at the appropriate NASA locations. Individuals may examine or obtain a copy of their biographical record at any time.

Contesting record procedures: The information in the record was provided voluntarily by the individual with the understanding that the information will be used for public release. The individual is at liberty at any time to revise, update, add, or delete information in his biographical record to his own satifaction.

Record source categories: Information in the biography of an individual in the system of records is provided volutarily by the individual generally with the aid of a form questionnaire.

NASA 10EEOR

System name: Equal Opportunity Records - NASA

System location: Locations 1 through 9 inclusive and Locations 11 and 12 as set forth in Appendix A..

Categories of individuals covered by the system: Complaints and applicants.

Categories of records in the system: (1) Complaints and (2) applications..

Authority for maintenance of the system: 42 U. S. C. 2473; 44 U. S. C. 3101; Executive Order 11478, dated August 8, 1969; EEOC Regulations; 29 C.F.R Part 1613; MSPB Regulations; 5 C.F.R. Parts 1200 - 1202; Equal Opportunity Act 1972, as amended (P.L. 92-261); Section 15 of the Age Discrimination in Employment Act of 1967, as amended (P.L. 93-259).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for maintaining active discrimination complaints files; to retain inactive discrimination complaints files; to analyze Headquarters workforce; to track the status of the Equal Opportunity programs; to provide Equal Employment Opportunity Commission and Merit Systems Protection Board with budget outlays for the Civil Rights Activity Report; to provide the Congress with accomplishments in Equal Opportunity programs; to refer applicants (minorities and females); and to determine contractors' compliance with Executive Orders 11246 and 11375 as amended.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to the Equal Employment Opportunity Commission and the Merit Systems Protection Board to facilitate their processing of discrimination complaints, including investigations, hearings and reviews on appeals; (2) Responses to other Federal agencies and other organizations having legal and administrative responsibilities related to the NASA Equal Employment Opportunity Programs and to individuals in the record; (3) Disclosures may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders. 9B

Records are indexed by any combination of name, birthdate, social security number, ethnic groups, grades, topics, statistics.

Safeguards: Records are located in locked metal file cabinets, or in metal file cabinets in secured rooms with access limited to those whose official duties require access and are locked during non duty hours.

Retention and disposal: Complaint files are maintained for one year after each case has been closed and then retired to the appropriate Federal Records Center. They are destroyed by the Records Center when the records are four years old. Other routine office records are reviewed periodically and retired to the appropriate Federal Records Center or destroyed.

System manager(s) and address: Director of Equal Opportunity Programs, Location 1.

Subsystem managers: Equal Employment Opportunity Officer at Locations 1, 3, and 8; Chief, Equal Employment Opportunity Programs Office at Location 2; Head, Equal Opportunity Programs Office at Location 4; Equal Employment Opportunity Programs Officer at Location 5; Equal Opportunity Officer at Location 6; Head, Equal Opportunity Programs Office at Location 7; Director, Equal Employment Opportunity Office at Location 9; Equal Opportunity Officer at Location 11; Equal Opportunity Officer at Location 12. Locations are as set forth in Appendix A.

Notification procedure: Information may be obtained from the cognizant system or subsystem manager listed above.

Record access procedures: Requests from individuals should be addressed to the same address as stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Employees, applicants, installation EEO officers, complainants, EEO counselors, EEO investigators, EEOC complaints examiners, MSPB officials, complaints coordinators, Director of Equal Opportunity Programs.

NASA 10EXDR

System name: Executive Development Records - NASA

System location: Locations 1 through 9 inclusive and Locations 11 and 12 as set forth in Appendix A.

Categories of individuals covered by the system: Approximately 700 individuals with experience and education unique to the NASA mission in the technical and administrative fields who are considered to be replacement candidates for key positions within NASA or who are considered to be high potential candidates.

Categories of records in the system: Biographical data, education, training, government experience, other experience, military service, individual development plan data.

Authority for maintenance of the system: 42 U.S.C. 2473, 44 U.S.C. 3101, and 5 U.S.C. 4103.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for the identification of replacement candidates who are currently ready to assume the responsibility of a key position/positions throughout the Agency and for the identification of high potential and replacement candidates who are in need of a certain amount of training and/or experience before assuming a key position within the Agency. These candidates would then be groomed toward the identified key positions. There are no routine uses outside of NASA of the information contained in this system of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on disks.

Retrievability: The records are indexed alphabetically; however, once this information is stored on cards and/or tape, it may be indexed by social security number or by educational and work experience codes.

Safeguards: Records are located in a locked metal file cabinet with access limited to those whose official duties require access.

Retention and disposal: These records will be retained and updated for as long as there is a need by NASA top management to readily identify and groom replacement candidates for NASA's key positions throughout the Agency.

System manager(s) and address: Director, Office of Executive Development, Location 1.

Subsystem Managers: Directors of Locations 2 through 9 inclusive and Locations 11 and 12 as set forth in Appendix A.

Notification procedure: Information may be obtained from the System Manager only.

Record access procedures: Requests from individuals should be addressed to the same address stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Employers, top NASA officials throughout the Agency, other persons acquainted with the work performance of the individual, and NASA personnel records.

NASA 10GMVP

System name: Government Motor Vehicle Operators Permit Records - NASA

System location: Locations 1 through 15 inclusive as set forth in Appendix A.

Categories of individuals covered by the system: NASA employees, contractor employees, other federal and state government employees.

Categories of records in the system: Name, home address, Social Security Number, physical description of individual, physical condition of individual, traffic record.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C. 3101; Federal Personnel Management Manual, Chapter 930; Federal Property Management Regulations Subpart 101-39.601; NASA Management Issuance 6720.1A.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for the purpose of identifying and checking record of applicant and issuing permits for operation of Government vehicles. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) National Driver Register, Department of Transportation, where Form 1047 is received for check and (2) Standard routine uses 1 through 4 inclusive, as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Indexed by name.

Safeguards: Records are located in metal file cabinets with access limited to those whose official duties require access. Room is locked during non-duty hours.

Retention and disposal: Records are maintained for a period of three years when permit expires or until permit holder leaves the Agency or requests cancellation. Records are destroyed when no longer reguired.

System manager(s) and address: Chief, Budget and Support Branch, Location 1.

Subsystem Managers: Chief, Security Branch, Location 2; Transportation Officer, Location 3; Chief, Logistics Management Division, Location 4; Chief, Transportation Branch, Location 5; Chief of Transportation, Location 6; Chief, Management Support Division, Location 7; Head, General Services Section, Location 8; Director, Logistics Office, Location 9; Chief Contract Management, Location 10; Chief Installation Operations, Location 11; Director of Administration, Location 12; Contract and Property Specialist, Location 13; Chief, Maintenance and Administration Office, Location 14; Chief of Facilities, Location 15. Locations are as set forth in Appendix A.

Notification procedure: Information may be obtained from the cognizant system manager listed above.

Record access procedures: Requests from individuals should be addressed to the same address as stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Individual NASA employees and individual contractor employees.

NASA 10HABC

System name: History Archives Biographical Collection-NASA

System location: Locations 1 and 5 as set forth in Appendix A.

Categories of individuals covered by the system: Individuals who are of historical significance in aeronautics, astronautics, space science, and other concerns of NASA.

Categories of records in the system: Biographical data; speeches and articles by the individual.

Authority for maintenance of the system: 42 U.S.C. 2473 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for researching and writing official histories and answering queries from various NASA offices. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: Disclosure to scholars (historians and other disciplines), or any other interested individuals for research and writing dissertations, articles, and books, for government, commercial and non-profit publication.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are stored in file folders.

Retrievability: The records are indexed by name.

Safeguards: Because these records are archive material and therefore a matter of public information, there are no special safeguard procedures required.

Retention and disposal: Most biographical files are retained indefinitely, either in the archives or retired to the appropriate Federal Records Center.

System manager(s) and address: Director, History Office, Code LH, Location 1.

Subsystems Managers: Administrative Operations Specialist, Code BE-4, Location 5(Locations are set forth in Appendix A).

Notification procedure: Information may be obtained from the cognizant system or subsystem manager listed above.

Record access procedures: Requests from individuals should be addressed to: Same address as stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Press releases, newspapers, journals, and the individuals themselves.

NASA 10HERD

System name: Human Experimental and Research Data Records - NASA

System location: Locations 2, 3, 5, 6, 9, and 13 as stated in Appendix A.

Categories of individuals covered by the system: Individuals who have been involved in space flight, aeronautical research flight, and/or participated in NASA tests or experimental or research programs; Civil Service employees, military, employees of other government agencies, contractor employees, students, human subjects (volunteer or paid), and other volunteers on whom information is collected as part of an experiment or study.

Categories of records in the system: Data obtained in the course of an experiment, test, or research medical data from inflight records; other information collected in connection with an experiment, test, or research.

Authority for maintenance of the system: 42 U.S.C. 2473 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used by NASA for the purposes of evaluating new analytical techniques, equipment, and re-examining flight data for alternative interpretations, developing applications of experimental techniques or equipment, reviewing and improving operational procedures with respect to experimental protocols (both inflight and ground), life support systems operating procedures, determining human engineering requirements, and carrying out other research.

In addition to the internal use of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to other individuals or organizations, including Federal, State, or local agencies, and nonprofit, educational, or private entities, who are participating in NASA programs or are otherwise furthering the understanding or application of biological, physiological, and behavioral phenomena as reflected in the data contained in this system of records; and (2) the standard routine use 4 as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are in file folders; on punch cards, magnetic tapes, or discs; on microfilm, microfiche, still photographs, or motion picture film; and on various medical recordings such as electrocardiographic tapes, stripcharts, and x-rays.

Retrievability: By name, experiment or test; arbitrary experimental subject number; flight designation; or crew member designation on a particular space or aeronautical flight.

Safeguards: Access is limited to Government personnel requiring access in the discharge of their duties, and to appropriate support

contractor employees on a need-to-know basis. Computerized records are identified by code number and records are maintained in locked rooms or files. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations set forth in 14 C.F.R. Part 1212.

Retention and disposal: Astronaut records are retained indefinitely. Ground test and research data are retained for varying periods of time depending on the need for use of the files, and are destroyed or otherwise disposed of when no longer needed, except that significant medical data will be handled in accordance with CSC regulations and NASA Control Schedule 11.

System manager(s) and address: Chief, Occupational Medicine Branch, Location 1.

Subsystem Managers: Research Assistant to the Director, Location 2; Director of Man/Systems Integration Division, Location 3; Assistant Director for Life Sciences, Space and Life Sciences Directorate, Location 5; Director, Biomedical Office, Location 6; Director, Management Services Office, Location 9; Manager, White Sands Test Facility, Location 13. Locations are as set forth in Appendix A.

Notification procedure: Information may be obtained from the system or subsystem manager named above.

Record access procedures: Requests from individuals should be addressed to the same address as stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Experimental test subjects, physicians, principal investigators and other researchers, and previous experimental test or research records.

NASA 10IDCF

System name: Inspections Division Case Files - NASA

System location: National Aeronautics and Space Administration, Washington, DC 20546.

Subsystem Locations: Locations 2, 5, 6, and 9 as set forth in Appendix A.

Categories of individuals covered by the system: Current and former employees of NASA, contractors and sub-contractors, and others whose actions have affected NASA.

Categories of records in the system: Case files pertaining to matters including, but not limited to, the following classifications of cases: (1) Fraud against the Government, (2) Theft of Government property, (3) Bribery, (4) Lost or stolen lunar samples, (5) Misuse of Government property, (6) Conflict of interest, (7) Complaints of discrimination, (8) Waiver of claim for overpayment of pay, (9) Leaks of Source Evaluation Board information, (10) Improper personal conduct, (11) Irregularities in awarding contracts.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C. 3101; 28 U.S.C. 535 (b); 4 C.F.R. 91; Executive Order 11478.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for: (1) Providing management with information which will serve as a possible basis for appropriate administrative action or the establishment of NASA policy; (2) Providing management with information relevant to the complaint issue to provide a basis for a determination in a complaint of discrimination case; and (3) Providing the Administrator of NASA (or the Comptroller General, as appropriate) sufficient information to provide a basis for decision concerning a request for waiver of claim in the case of an erroneous payment of pay.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Responding to the White House regarding matters inquired of; (2) Disclosure to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; (3) Providing data to Federal intelligence elements; (4) Providing data to any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested; (5) Providing personal identifying data to Federal, State, local or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (6) Disclosing, as necessary, to a contractor, subcontractor, or grantee firm or institution to the extent that the disclosure is in NASA's interest and is relevant and necessary in order that the contractor/subcontractor/grantee is able to take administrative or corrective action; (7) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in the system is stored in file folders and on index cards.

Retrievability: Information is retrieved by name of individual.

Safeguards: Information is kept in locked metal file cabinets. Access is limited to Inspections Division personnel.

Retention and disposal: Case files are transferred to the appropriate Federal Record Center 5 years after the case is closed and destroyed after 30 years.

System manager(s) and address: Assistant Inspector General for Investigations, Location 1.

Subsystem Managers: Western Regional Inspector, Western Regional Inspections Office, Location 2; Southwestern Regional Inspector, Southwestern Regional Inspections Office, Location 5; Southeastern Regional Inspector, Southeastern Regional Inspections Office, Location 6; South Central Regional Inspector, South Central Regional Inspections Office, Location 9. Locations are as set forth in Appendix A.

Notification procedure: None. System is exempt. See below.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Exempt.

Systems exempted from certain provisions of the act: The Inspections Division Case Files system of records is exempt from all sections of the Privacy Act of 1974 (5 U.S.C. 552a), EXCEPT the following:

(b) relating to conditions of disclosure; (c)(1) and (2) relating to keeping and maintaining a disclosure accounting; (e)(4)(A) through (F) relating to publishing an annual system notice setting forth name, location, categories of individuals and records, routine uses, and policies regarding storage, retrievability, access controls, retention and disposal of the records; (e)(6), (7), (9), (10) and (11) relating to agency requirements for maintaining systems; and (i) relating to criminal penalties.

The determination to exempt this system of records has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(j) and Subpart 7 of the NASA regulations appearing in 14 C.F.R. Part 1212, for the reason that the Inspections Division of the Office of Inspections and Security, NASA, is a component of NASA which performs as its principal function activity pertaining to the enforcement of criminal laws, within the meaning of 5 U.S.C. 552a(j)(2).

NASA 10PAYS

System name: Payroll Systems - NASA

System location: Locations 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, and 12 as set forth in Appendix A.

Categories of individuals covered by the system: Present and former NASA employees.

Categories of records in the system: The data contained in this system of records includes payroll, employee leave, insurance, labor and manpower distribution and overtime information.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C. 3101; 5 U.S.C. 5501 et seq.; 5 U.S.C. 6301 et seq.; General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, Title 6; Treasury Fiscal Requirements Manual, Part III; Federal Personnel Manual; and NASA Financial Management Manual, Sections 9300 and 9600.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for maintaining the payroll records and related areas.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) To furnish to a third party a verification of an employee's status upon written request of the employee; (2) To facilitate the verification of employee contributions and insurance data with carriers and collection agents; (3) To report to the Office of Personnel Management (a) withholdings of premiums for life insurance, health benefits and retirement, and (b) separated employees subject to retirement; (4) To furnish the U. S. Treasury magnetic tape reports on net pay, net savings allotments and bond transmittal pertaining to each employee; (5) To provide the Internal Revenue Service with detail of wages taxable under the Federal Insurance Contributions Act and to furnish a magnetic tape listing on Federal tax withholdings; (6) To furnish various financial institutions itemized listings of employee's pay and savings allotments transmitted to the institutions in accordance with employee requests; (7) To provide various Federal, state, and local

taxing authorities itemized listing of withholdings for individual income taxes; (8) To respond to requests by State employment security agencies and the U.S. Department of Labor for employment, wage, and separation data on former employees for the purpose of determining eligibility for unemployment compensation; (9) To report to various Combined Federal Campaign offices total contributions withheld from employee wages; (10) To furnish leave balances and activity to the Office of Personnel Management upon request; (11) To furnish data to labor organizations in accordance with negotiated agreements; (12) To furnish pay data to the Department of State for certain NASA employees located outside the United States; and (13) Standard routine uses 1 through 4 inclusive as set forth in Apprndix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, magnetic tape, and microfilm.

Retrievability: Records are indexed by name and/or social security number.

Safeguards: Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. Part 1212.

Retention and disposal: Records are retained for audit by the General Accounting Office and are transferred to the National Personnel Records Center, St. Louis, Missouri, anywhere from one to three years. Records are retained and destroyed in accordance with the policies and procedures outlined in NASA Records Disposition Handbook - NHB 1441.1A.

System manager(s) and address: Director, Financial Management Division, Office of the Comptroller, Location 1.

Subsystem Managers: Chief, Financial Management Division, Locations 2, 4, 5, and 7; Financial Management Officer, Locations 3; Chief, Financial Management Office, Location 6; Director of Resources Management, Location 8; Director, Financial Management Office, Location 9; Chief, Resources and Financial Management Office, Location 11; and Head, Financial Management Branch, Location 12. Locations are as set forth in Appendix A.

Notification procedure: Information may be obtained from the cognizant system or subsystem manager listed above.

Record access procedures: Requests from individuals should be addressed to the same address as stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Individual on whom the record is maintained, personnel office, and the individual's supervisor.

NASA 10SCCF

System name: Standards of Conduct Counselling Case Files - NASA.

System location: National Aeronautics and Space Administration, Washington, DC 20546.

Categories of individuals covered by the system: Current, former, and prospective NASA employees, who have sought advice or have been counselled regarding conflict of interest requirements for government employees.

Categories of records in the system: Depending upon the nature of the problem, information collected may include employment history, financial data, and information concerning family members.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C 3101; 18 U.S.C. 201, 203, 205, 207-209; 5 U.S.C. 7324-7327; Executive Order 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in the system of records is used within NASA for the purpose of counseling employees regarding conflict of interest problems. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Office of Personnel Management and Merit Systems Protection Board: for investigation of possible violations of standards of conduct which the agencies directly oversee; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are documentary and maintained in loose leaf binders or file folders.

Retrievability: By name of individual.

Safeguards: Restricted access to a few authorized persons; stored in combination lock safe.

Retention and disposal: Retained indefinitely.

System manager(s) and address: Assistant General Counsel for General Law, Code GG, NASA Headquarters, Washington, DC 20546.

Notification procedure: Information may be obtained from the System Manager.

Record access procedures: Requests from individuals should be addressed to the System Manager and must include employee's full name and NASA installation where employed.

Contesting record procedures: The NASA regulations and procedures for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Information collected directly from individual and from his official employment record.

NASA 10SECR

System name: Security Records System - NASA.

System location: Locations 1 through 9 inclusive and Location 11, 12, and 15 as set forth in Appendix A.

Categories of individuals covered by the system: Employees, applicants, NASA committee members, NASA consultants, NASA experts, NASA Resident Research Associates, guest workers, contractor employees, detailees, visitors, correspondents (written and telephonic), Faculty Fellows, sources of information.

Categories of records in the system: Personnel Security Records, Criminal Matter Records, Traffic Management Records.

Authority for maintenance of the system: National Aeronautics and Space Act, P.L. 85-568; Espionage and Information Control Statutes, 18 U.S.C. 793 through 799; Sabotage Statutes, 18 U.S.C. 2151 through 2157; Conspiracy Statute, 18 U.S.C. 371; 18 U.S.C. 202-208 and 3056; Internal Security Act of 1950, 5 U.S.C. 781 through 798; Atomic Energy Act of 1954, P.L. 703; Executive Order 11653, Classification and Declassification of National Security Information and Material; Executive Order 10865, Safeguarding Classified Information Within Industry; Executive Order 10450, Security Requirements for Government Employees; P.L. 81-733; Executive Order 11490, Assigning Emergency Preparedness Functions to Federal Departments and Agencies; Federal Property Management Regulation, 41 C.F.R. Subpart 101-11; Federal Personnel Manual, Chapters 732 and 736; 14 C.F.R. Part 1203a; 42 U.S.C. 2473 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Personnel Security Records: The information contained in this category of records is used within NASA for the purpose of granting security clearances; for determining qualifications, suitability, and loyalty to the United States Government; for determining qualifications for access to classified information, security areas, and NASA installations, and for determining qualifications to travel to Communist controlled areas.

In addition to the internal uses of the information contained in this category of records, the following are routine uses outside of NASA: (1) To determine eligibility to perform classified visits to other Federal agencies and contractor facilities; (2) To provide data to Federal intelligence elements; (3) To provide data to any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested; (4) To provide a basis for determining preliminary visa eligibility; (5) To respond to White House inquiries; (6) Disclosures may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; (7) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (8) Disclosure to a NASA contractor, subcontractor, grantee, or other government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other government organization; and (9) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Criminal Matter Records: The information contained in this category of records is used within NASA for providing management with information which will serve as a possible basis for administrative action. In addition to the internal uses of the information contained in this category of records, the routine uses outside of NASA are: (1) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of

identity of persons under investigation; (2) To provide a NASA contractor, subcontractor, grantee, or other government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other government organization; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Traffic Management Records: The information contained in this category of records is used within NASA to provide designated officials and employees with data concerning vehicle ownership, traffic accidents, violation of traffic laws, suspension of driving privileges, traffic control, vehicle parking, and car pools. In addition to the internal uses of the information contained in this category of records, the routine uses outside of NASA are: (1) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (2) To provide a NASA contractor, subcontractor, grantee, or other government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other government organization; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, magnetic tape, punch cards, microfilm, and film.

Retrievability: Records are indexed by name, file number, organization, place of origin, badge number, decal number, date of event, space number, payroll number, and social security number.

Safeguards: Access to Personnel Security Records is controlled by Government personnel exclusively. Access to Criminal Matter Records is controlled by either Government personnel or selected personnel of NASA contractor guard forces. After presenting proper identification and requesting a file or record, a person with a need-to-know and, if appropriate, a proper clearance may have access to a file or record only after it has been retrieved and approved for release by a NASA security representative. These records are secured in security storage equipment.

Traffic Management Records: Access to these records is controlled by either Government personnel or selected personnel of NASA contractor guard forces. Access to these records is permitted after a determination has been made that the requestor has an official interest. These records are stored in locked containers.

Retention and disposal: Records, depending upon type, are retained from 6 months to 30 years before being destroyed. When current immediate need no longer exists, records are either transferred to the appropriate Federal Records Center or destroyed in accordance with records disposal instructions.

System manager(s) and address: Director, Security Division, Location 1.

Subsystem Managers: Chief, Security Branch, Locations 2, 4, and 5; Security Officer, Location 3; Chief, Security Office, Location 6; Security Officer, Locations 7, 8, 11, and 12; Chief, Security Division, Location 9; Safety and Security Officer at Location 15. Locations are as set forth in Appendix A.

Notification procedure: Information may be obtained from the cognizant system or subsystem manager listed above. Requests must contain the following identifying data concerning the requestor: first, middle, and last name; date of birth; social security number; period and place of employment with NASA, if applicable.

Record access procedures: Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information have been exempted by the Administrator under 5 U.S.C. 522a (k) (5) from the access provisions of the Act.

Criminal Matter Records compiled for civil or criminal law enforcement purposes have been exempted by the Administrator under 5 U.S.C. 552a (k) (2) from the access provisions of the Act.

Traffic Management Records: Requests from individuals should be addressed to the same address as stated in the notification section above.

Contesting record procedures: For Personnel Security Records and Criminal Matters Records see Access, above. For Traffic Management Records, the NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules section of the FEDERAL REGISTER.

Record source categories: Personnel Security Records: Exempt

Criminal Matter Records: Exempt

Traffic Management Records: Employees, civil investigative agencies, civil law enforcement agencies, Federal and local judicial systems, medical records.

Systems exempted from certain provisions of the act: Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a confidential source, are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c) (3) relating to access to the disclosure accounting; (d) relating to access to the records; (e) (1) relating to the type of information maintained in the records; (e) (4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a (k) (5) and Subpart 7 of the NASA regulations appearing in 14 C.F.R. Part 1212.

Criminal Matter Records to the extent they constitute investigatory material compiled for law enforcement purposes are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c) (3) relating to access to the disclosure accounting; (d) relating to access to the records; (e) (1) relating to the type of information maintained in the records; (e) (4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a (k) (2) and Subpart 7 of the NASA regulations appearing in 14 C.F.R. Part 1212.

Records subject to the provisions of 5 U.S.C. 552 (b) (1) (required by Executive order to be kept secret in the interest of national defense or foreign policy) are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c) (3) relating to access to the disclosure accounting; (d) relating to the access to the records; (e) (1) relating to the type of information maintained in the records; (e) (4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552A (k) (1) and Subpart 7 of the NASA regulations appearing in 14 C.F.R. Part 1212.

## NASA 10SMED

System name: System of Medical Records - NASA

System location: In Health Clinics/Units at locations 1 through 15 inclusive as set forth in Appendix A.

Categories of individuals covered by the system: NASA Civil Service employees & applicants; other Agency civil service & military employees working at NASA; visitors to field installations; on-site contractor personnel who receive job related examinations or come to clinic for emergency or first aid treatment; space flight personnel and their families.

Categories of records in the system: General medical records of first aid, emergency treatment, examinations, exposures, and consultations.

Information resulting for physical examinations, laboratory and other tests, and medical history forms; treatment records; screening examination results; immunization records; administration of medications prescribed by private/personal physicians; statistical records; examination schedules; daily log of patients; correspondence; radiation exposure records; alcohol/drug patient information; consultation records.

Astronauts and their families - more detailed and complex physical examinations.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C. 3101; OMB Circular A-72; Public Law 92-255; Public Law 79-658; Public Law 91-66.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for the following purposes: Reference by examining physicians in conduct of physical

examinations; review by physicians in consideration of fitness for duty; evaluation for physical disability retirement; statistical data development; patient recall; in-space medical evaluation for astronauts; exposure data for radiation/toxic exposure limits, compliance and examinations; consultations; evaluation of employees, applicants, and contractor employees for specialized or hazardous duties.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Referral to private physicians designated by the individual when requested in writing; (2) Patient referrals; (3) Referral to OPM, OSHA and other Federal agencies as required in accordance with these special program responsibilities; (4) Referral of information to a non-NASA individual's employer; (5) Evaluation by medical consultants; (6) Standard routine use 4 as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are in file folders, punch cards, electrocardiographic tapes and x-rays.

Retrievability: By name, date of birth and social security number.

Safeguards: Access limited to concerned medical personnel on a need-to-know basis. Computerized records are identified by code number and records are maintained in locked rooms or files. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. Part 1212.

Retention and disposal: In accordance with CSC regulations and NASA Control Schedule II. Records on astronauts are retained permanently.

System manager(s) and address: Chief, Occupational Medicine Branch, Location 1

Subsystem Managers: Medical Director or Medical Administrator at Locations 1 through 15 inclusive as set forth in Appendix A.

Notification procedure: Information may be obtained from the cognizant system or subsystem manager listed above.

Record access procedures: Requests from individuals should be addressed to the same address as stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 C.F.R. Part 1212.

Record source categories: Individuals, physicians and previous medical records of individuals.

## NASA 10SPER

System name: Special Personnel Records - NASA

System location: Locations 1 through 9 inclusive and Locations 11 and 12 as set forth in Appendix A.

Categories of individuals covered by the system: Candidates for and recipients of awards or NASA training; civilian and active duty military detailees to NASA; participants in enrollee programs; Faculty, Science, National Research Council and other Fellows, Associates and Guest Workers including those at NASA installations but not on NASA rolls; NASA contract and grant awardees and their associates having access to NASA premises and records; individuals with interest in NASA matters including Advisory Committee Members; NASA employees and family members, prospective employees and former employees.

Categories of records in the system: Special Program Files including: (1) Alien Scientist files; (2) Award files; (3) Counseling files, including alcohol and drug abuse, life and health insurance, retirement, upward mobility, and work injury counseling files; (4) Military and Civilian Detailee files; (5) Personnel Development files such as nominations for and records of training or education, Upward Mobility Program files, Intern Program files, Apprentice files, and Enrollee Program files; (6) Special Employment files such as Federal Junior Fellowship Program files, Stay-in-School Program files, Summer Employment files, Worker-Trainee Opportunity Program files, NASA Executive Position files, Expert and Consultant files, and Cooperative Education Program files; and (7) Supervisory appraisals under Merit Promotion Plan.

Correspondence and related information including: (1) Claims correspondence and records about insurance such as life, health, and travel; (2) Congressional and other Special Interest correspondence, including employment inquiries; (3) Correspondence and records concerning travel related to permanent change of station; (4) Debt complaint correspondence; (5) Employment interview records; (6) Information related to outside employment and activities of NASA employees; (7) Placement follow-ups; (8) Pre-employment inquiries and reference checks; (9) Preliminary records related to possible adverse actions; (10) Records related to reductions-in-force; (11) Records under negotiated grievance procedures; (12) Separation information including exit interview records, death certificates and other information concerning deaths, retirement records, and other information pertaining to separated employees; (13)Special planning, analysis, and administrative information; (14) Work performance records; (15) Working papers for prospective or pending retirements.

Special Records and Rosters including: (1) Locator files; (2) Ranking lists of employees; (3) Repromotion candidate lists; (4) Retired military employee records; (5) Retiree records.

Agencywide and installation automated personnel information.

Rosters, applications, recommendations, assignment information and evaluations of Faculty, Science, National Research Council and other Fellows, Associates and Guest Workers including those at NASA installations but not on NASA rolls; also, information about NASA contract and grant awardees and their associates having access to NASA premises and records.

Information about members of advisory committees and similar organizations.

All NASA-maintained information of the same types as, but not limited to, that information required in systems of records for which the Office of Personnel Management and other Federal personnel-related agencies publish governmentwide Privacy Act Notices in the Federal Register.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used by officials and employees within NASA for preview, planning, review and management decisions regarding personnel and activities related to the records.

In addition to the internal uses of the information contained in this system of records the following are routine uses outside of NASA: (1) Disclosures may be made to organizations or individuals having contract, legal, administrative or cooperative relationships with NASA, including labor unions, academic organizations, governmental organizations, non-profit organizations, and contractors; and to organizations or individuals seeking or having available a service or other benefit or advantage. The purpose of such disclosures is to satisfy a need or needs, further cooperative relationships, offer information, or respond to a request; (2) Statistical or data presentations may be made to governmental or other organizations or individuals having need of information about individuals in the records; (3) Responses may be made to other Federal agencies, and other organizations having legal or administrative responsibilities related to programs and individuals in the records; (4) Disclosure may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; and (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B may also apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, lists, forms, index cards, microfilm, microfiche, and/or various computer storage devices such as discs, magnetic tapes and punched cards.

Retrievability: Records are indexed by any one or a combination of name, birthdate, social security number, or identification number.

Safeguards: Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. Part 1212.

Retention and disposal: Records are retained for varying periods of time depending on the need for use of the files, and are destroyed or otherwise disposed of when no longer needed.

System manager(s) and address: Director, Personnel Programs Division, Location 1

Subsystem Managers: Director, Headquarters Personnel Division, Location 1; Director of Personnel, Locations 2, 3, 4, 5, 6, 7, 8, 9, and 12; Chief, Personnel Office, Location 11. Locations are as set forth in Appendix A.

Notification procedure: Apply to the System or Subsystem Manager at the appropriate location above. In addition to personal identification (name, social security number, etc.), indicate the specific type of record, the appropriate date or period of time, and the specific kind of individual applying (e.g., employee, former employee, contractor employee, etc.).

Record access procedures: Same as notification procedures above.

Contesting record procedures: The NASA regulations pertaining to access to records and for contesting contents and appealing initial

determinations by the individual concerned are set forth in 14 C.F.R. Part 1212.

Record source categories: Individuals to whom the records pertain, NASA employees, other Federal employees, other organizations and individuals.

NASA 10XROI

System name: Exchange Records on Individuals - NASA

Security classification: Locations 6, 7, 8, 9, and 12 as set forth in Appendix A.

Categories of individuals covered by the system: Present and former employees of, and applicants for employment with, NASA Exchanges, Recreational Associations, and Employees' Clubs at NASA installations. Individuals with active loans or charge accounts at one or more of the several organizations.

Categories of records in the system: Exchange Employees' personnel and payroll records, including injury claims, unemployment claims, biographical data, performance evaluations, annual and sick leave records, and all other employee records. Credit records on NASA employees with active accounts.

Authority for maintenance of the system: 42 U.S.C. 2473 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for (1) maintaining exchange employees' payroll, leave, and other records; (2) determining pay adjustment eligibility; (3) determining Federal, State, and City tax withholdings; (4) determining leave eligibility; (5) determining person to notify in emergency; (6) certification of unemployment or injury claims; (7) determining eligibility for employment and promotion; and (8) determining credit standing.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) To furnish a third party a verification of an employee's status upon written request of the employee; (2) To facilitate the verification of employee contributions for insurance data with carriers and collection agents; (3) To provide various Federal, State, and local taxing authorities itemized listing of withholdings for individual income taxes; (4) To respond to State employment compensation requests for wage and separation data on former employees; (5) To report previous job injuries to workmen's compensation organizations; (6) For emergency notice to person designated by employee; (7) To report unemployment record to appropriate State and local authorities; (8) When requested, provide other employers with work record; and (9) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by name.

Safeguards: Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. part 1212.

Retention and disposal: Exchange personnel records are permanent.

System manager(s) and address: Associate Administrator - NASA Comptroller, Location 1.

Subsystem Managers: Chairman, Exchange Council, Locations 6 and 7; Treasurer, NASA Exchange, Location 8; Exchange Operations Manager, Location 9; Head, Administrative Management Branch, Location 12. Locations are as set forth in Appendix A.

Notification procedure: Individuals may obtain information from the cognizant subsystem managers listed above.

Record access procedures: Requests from individuals should be directed to the same address as stated in the notification section above.

Contesting record procedures: The NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules section of the FEDERAL REGISTER.

Record source categories: Individual on whom the record is maintained and the individual's supervisor.

NASA 22ORER

System name: LeRC Occupational Radiation Exposure Records - NASA.

System location: NASA/Lewis Research Center, 21000 Brookpark Road, Cleveland, OH 44135.

Categories of individuals covered by the system: Present and former LeRC employees and contractor personnel who may be exposed to radiation.

Categories of records in the system: Name, date of birth, exposure history, name of license holder, Social Security Number, employment and training history.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C 3101; 42 U.S.C. 2021, 2073, 2093, 2095, 2111, 2133, 2134, 2201; Title 10 Code of Federal Regulations, Part 20.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA to inform individuals of their radiation dosage.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Standard routine uses 1 through 4 inclusive as set forth in Appendix B and (2) The Nuclear Regulatory Commission (formerly Atomic Energy Commission) may inspect records pursuant to fulfilling their responsibilities in administering and issuing licenses to use radiation sources.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by name.

Safeguards: Records are personally supervised during the day and locked in the office at night.

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. Part 1212.

Retention and disposal: Records are retained as long as the user custodian is employed in NASA programs and as long thereafter as required by regulations of the Nuclear Regulatory Commission.

System manager(s) and address: Chief, Office of Environmental Health, address same as shown for system location.

Notification procedure: Individuals may obtain information from the System Manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Individual is sole source.

NASA 51RSCR

System name: GSFC Radiation Safety Committee Records - NASA

System location: Goddard Space Flight Center, National Aeronautics and Space Administration, Greenbelt, Maryland 20771.

Categories of individuals covered by the system: Radiation users and custodians under GSFC cognizance.

Categories of records in the system: Employment and training history.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C. 3101; USNRC License and GHB 1860.1, 'Radiation Safety Handbook'; GHB 1860.2 'Radiation Safety Radio-Frequency.'

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this sytem of records is used within NASA for review and approval of custodians and users of ionizing radiation by the Radiation Safety Committee. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside NASA: (1) The Nuclear Regulatory Commission (formerly Atomic Energy Commission) may inspect records pursuant to fulfilling their responsibilities in administering and issuing licenses to use radiation sources; (2) Occupational Safety and Health Administration (Federal and State) may inspect records pursuant to fulfilling their responsibilities under the Occupational Safety and Health laws. (3) The Environmental Protection Agency may inspect records pursuant to fulfilling their responsibilities under the Environmental Protection laws and executive order; (4) The Food and Drug Administration, DHEW, may inspect records pursuant to fulfilling their responsibilities respecting use of lasers and x-rays; (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by name only.

Safeguards: Records are located in locked metal file cabinet in locked room with access limited to those whose official duties require access.

Retention and disposal: Records are kept for two years. If employee does not wish to be renewed for position at the end of 2-year period, his record is removed and placed in inactive file.

System manager(s) and address: Chief, Health and Safety Engineering Office; address same as shown for system location.

Notification procedure: Individuals may obtain information from the system manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Employees

NASA 53BHTR

System name: Wallops Flight Center Base Housing Tenant Record - NASA.

System location: Wallops Flight Center, National Aeronautics and Space Administration, Wallops Island, Virginia 23337

Categories of individuals covered by the system: Tenants of Wallops Housing area.

Categories of records in the system: Housing Rental Agreements, records of rent receipts and records of dormitory occupants.

Authority for maintenance of the system: 42 U.S.C. 2473 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for control of family housing and dormitory facilities. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside NASA: (1) To furnish to a third party a verification of an employee's tenant status upon a written request of tenant; (2) To furnish verification of residency to various Federal, State, and local authorities; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders and card files.

Retrievability: Records are indexed by name and/or room number.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. Part 1212.

Retention and disposal: Records are retained and destroyed in accordance with the policies and procedures outlined in NASA Records Disposition Handbook, NHB 1441.1A.

System manager(s) and address: Head, Administrative Management Branch, address same as shown for System Location.

Notification procedure: Individuals may obtain information from the System Manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Tenants and dormitory occupants and Administrative Management records.

NASA 62FHAP

System name: MSFC Federal Housing Administration (FHA) 809 Housing Program - NASA.

System location: George C. Marshall Space Flight Center, National Aeronautics and Space Administration, Marshall Space Flight Center, Alabama 35812.

Categories of individuals covered by the system: MSFC Civil Service and contractor personnel who have applied for FHA 809 housing.

Categories of records in the system: Contains personal (name, home address, home phone, age, marital status), realtor/mortgage and employment data. Contains certification by employee, MSFC, and FHA.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C. 3101; and 12 U.S.C. 1748h-1 (Section 809, National Housing Act).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for identification of employees who have applied for and received or not received FHA 809 certificates. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to the Federal Housing Administration to facilitate their issuing or denying 809 housing certificates; (2) Disclosures to realtors and builders to facilitate their activities with respect to the real estate transaction; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders and index cards.

Retrievability: Records are indexed by certificate number and person's name.

Safeguards: Records are located in locked metal file cabinets or in metal file cabinets in secured rooms with access limited to those whose official duties require access.

Retention and disposal: Certificates are held for five years after issuance and then destroyed by shredding. Index cards are held indefinitely in order that an employee will not be authorized more than one certificate.

System manager(s) and address: Director, Personnel Office, address same as shown for System Location.

Notification procedure: Individuals may obtain information from the System Manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 C.F.R. Part 1212.

Record source categories: Individual on whom the record is maintained.

NASA 72XOPR

System name: JSC Exchange Activities Records - NASA.

System location: Lyndon B. Johnson Space Center, National Aeronautics and Space Administration, Houston, Texas 77058.

Categories of individuals covered by the system: Employees and past employees of JSC Exchange Operations, applicants under the JSC Exchange Scholarship Program, and JSC employees or JSC contractor employees participating in sports or special activities sponsored by the Exchange.

Categories of records in the system: For present and past employees of the JSC Exchange Operations, the system includes a variety of records relating to personnel actions and determinations made about an individual while employed by the NASA Exchange-JSC. These records contain information about an individual relating to birth date; social security number; home address and telephone number; marital status; references; veteran preference, tenure, handicap; position description, past and present salaries, payroll deductions, leave; letters of commendation and reprimand; adverse actions, charges and decisions on charges; notice of reduction-in-force; personnel actions, including but not limited to, appointment, reassignment, demotion, detail, promotion, transfer and separation; minority group; records relating to life insurance, health and retirement benefits; designation of beneficiary; training; performance ratings; physical examinations; criminal matters; data documenting the reasons for personnel actions or decisions made about an individual; awards; and other information relating to the status of the individual.

For successful applicants under the JSC Exchange Scholarship Program, the system contains information supplied by individual Center employees who have applied for an Exchange Scholarship for their son or daughter and includes, but is not limited to, education, financial transactions or holdings, employment history, medical data and other related information.

For participants in social or sports activities sponsored by the Exchange, information includes employees' or contractors' employee identification number, organization, location, telephone number, and other information directly related to status or interest in participation in such activities.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C. 3101; NASA Management Issuance 9050.6; Treasury Fiscal Requirement Manual, Part III, Payroll Deductions and Withholdings; Federal Personnel Manual; JSCM 1712, Exchange Activities Manual, dated December 1973; Exchange Operations Manual, dated February 1974.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for the following purposes: (1) With respect to past or present employees of the JSC

Exchange Operations, information in the system is used to: (a) pay employees and advise employees through Leave and Earnings Statements, (b) provide for promotion opportunities, disciplinary actions, staffing controls, budget requirements, employee fringe benefits, and other related personnel managerial purposes, and (c) submit reports in accordance with legal or policy directives and regulations to center management and NASA Headquarters; (2) With respect to successful applicants under the JSC Scholarship Program, the information in the system is used to award scholarships to the sons and daughters of NASA-JSC employees; and (3) With respect to participants in the social or sports activities sponsored by the Exchange, the information maintained in the system is used to facilitate participation in such activities.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA for information maintained on JSC Exchange Operations employees only: (1) Provide information in accordance with legal or policy directives and regulations to the Internal Revenue Service, Department of Labor, Department of Commerce, Texas State Government Agencies, labor unions; (2) Provide information to insurance carriers with regard to workman's compensation, health and accident, and retirement insurance coverages; (3) Provide employment or credit information to other parties as requested by a current or former employee of the JSC Exchange Operations; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: For Exchange employees, records are maintained by name and filed as current or past employee. For Scholarship applicants, records are maintained by name. For participants in social or sports activities, records are maintained by name.

Safeguards: Records are located in locked metal file cabinets with access limited to those whose official duties require access.

Retention and disposal: For employees of JSC Exchange Operations, Personnel Records are retained indefinitely to satisfy payroll, reemployment, unemployment compensation, tax and employee retirement purposes.

For successful applicants under the JSC Exchange Scholarship Program, records are maintained until completion of awarded scholarship and then destroyed. Records pertaining to unsuccessful applicants are returned to them.

For participants in social or sports activities, records are maintained for a stated participation period, and are then destroyed.

System manager(s) and address: Manager, Exchange Operations, NASA Exchange - JSC, address same as shown for System Location.

Notification procedure: Individuals may obtain information from the System Manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 C.F.R. Part 1212.

Record source categories: For employees of the JSC Exchange Operations, information is obtained from the individual employee, the employee references, insurance carriers, JSC Health Services Division, JSC Security, employment agencies, Texas Unemployment Commission, credit bureaus, and creditors.

With respect to the JSC Exchange Scholarship Program, the information is obtained from the parents or guardians of the scholarship participants.

For JSC employees and JSC contractor employees participating in social or sports activities sponsored by the Exchange, information is obtained from the individual participant.

NASA 73FHAP

System name: WSTF Federal Housing Administration (FHA) 809 Housing Program - NASA.

System location: JSC White Sands Test Facility, National Aeronautics and Space Administration, P. O. Drawer MM, Las Cruces, New Mexico 88001.

Categories of individuals covered by the system: WSTF Civil Service and contractor personnel who have applied for FHA 809 housing.

Categories of records in the system: Contains personal (name, home address, home phone, age, marital status), realtor/mortgage and employment data. Contains certification by employee, WSTF, and FHA.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C. 3101; and 12 U.S.C. 1748h-1 (Section 809, National Housing Act).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for identification of employees who have applied for and received or not received FHA 809 certificates. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to the Federal Housing Administration to facilitate their issuing or denying 809 housing certificates; (2) Disclosures to realtors and builders to facilitate their activities with respect to the real estate transaction; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders and index cards.

Retrievability: Records are indexed by certificate number and person's name.

Safeguards: Records are located in locked metal file cabinets or in metal file cabinets in secured rooms with access limited to those whose official duties require access.

Retention and disposal: Certificates are held for five years after issuance and then destroyed by shredding. Index cards are held indefinitely in order that an employee will not be authorized more than one certificate.

System manager(s) and address: Chief, Administration Office, address same as shown for System Location.

Notification procedure: Individuals may obtain information from the System Manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Individual on whom the record is maintained.

NASA 76RTES

System name: KSC Radiation Training and Experience Summary - NASA

System location: John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, Florida 32899.

Categories of individuals covered by the system: Custodians or users of radioactive materials or ionizing radiation-producing devices. Applicable to all users or custodians at KSC and NASA or NASA contractor personnel at Cape Canaveral Air Force Station, Florida, or Vandenberg Air Force Base, California.

Categories of records in the system: Name and nuclear related experience.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C. 3101; 42 U.S.C. 2021, 2111, 2231, 2232, 2233, Title 10 Code of Federal Regulations, Part 33 for Federal Licensee, and Florida Administrative Code, Chapter 10 D-56 for State Licensee.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA to determine the suitability of individuals for specific assignments dealing with ionizing radiation and to preclude unnecessary exposure to self and others.

In addition to the internal uses of the information contained in this system of records, routine uses outside of NASA include: (1) Disclosure to Air Force Radiation Protection Officers at Cape Canaveral Air Force Station, Florida, and Vandenberg Air Force Base, California, to governmental and private license holders, and to NASA contractors using radioactive materials or ionizing radiation producing devices to facilitate protection of the individual and the public; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B; (3) The Nuclear Regulatory Commission (formerly Atomic Energy Commission) may inspect records pursuant to fulfilling their responsibilities in administering and issuing licenses to use radiation sources.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Duplicate copies of the records are maintained for Kennedy Space Center by Pan American World Airways Occupational Medicine and Environmental Health Services. All records maintained by the KSC Biomedical Office or Pan American World Airways consist of 8 1/2 x 11 inch paper files.

Retrievability: Both files are indexed by name.

Safeguards: Records are personally supervised during the day and locked in the office at night. Records are protected in accordance with the requirements and procedures which appear in the applicable NASA regulations at 14 C.F.R. Part 1212.

Retention and disposal: Records are retained as long as the user custodian is employed in NASA programs and then destroyed.

System manager(s) and address: KSC Radiation Protection Officer; address same as shown for System Location.

Notification procedure: Individuals may obtain information from the system manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Individual is sole source.

NASA 76STCS

System name: KSC Shuttle Training Certification System (YC 04)

System location: John F. Kenndey Space Center Systems Training and Employee Development Branch Kenndey Space Center, FL 32899

Categories of individuals covered by the system: KSC Civil Service, KSC contractor, and DOD personnel who have received systems, skills, or safety training in support of KSC or Space Shuttle Operations.

Categories of records in the system: Records of training attendance and certifications, including certifications of physical ability to perform hazardous tasks.

Authority for maintenance of the system: 42 U.S.C. 2473, 44 U.S.C. 3101

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA to determine training needs, and the operational readiness of the work force, to provide data for badging and access control to hazardous areas or critical operations, to determine the size of individual protective equipment and to identify personnel with needed skill combinations. In addition to the internal uses the information contained in this systems of records, the following are routine uses outside of NASA: (1) Disclosure is made of information on employees of KSC contractors to those contractor organizations and to the Computer Sciences Corporation to facilitate the performance of the contracts. These disclosures are made by Boeing Services International which compiles these training records for KSC; (2) Standard routine uses 1-4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained for KSC by Computer Services Corporation on computer tape with printouts made quarterly. Complete printouts are filed in the KSC Systems Training and Employee Development Branch, and The Boeing Services International Training Office. Records containing raw data on course attendance and trainee statistics are maintained by Boeing Services International for KSC.

Retrievability: Indexed by name, organization, and skill.

Safeguards: These listings are automated systems, skills, and safety training records maintained under administrative control of responsible organizations in areas that are locked when not in use. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. Part 1212.

Retention and disposal: Outdated records are destroyed.

System manager(s) and address: Chief, Systems Training and Employee Development Branch, Kennedy Space Center, FL 32899

Notification procedure: Individuals may obtain information from the Systems Manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and for appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Information is obtained from class rosters, operational records, reports of physical examination completions and actions or certification boards.

NASA 76XRAD

System name: KSC USNRC Occupational External Radiation Exposure History for Nuclear Regulatory Commission Licenses - NASA.

System location: John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, Florida 32899.

Categories of individuals covered by the system: KSC civil servants and KSC contractor personnel who have received exposure approximating or exceeding statutory limits.

Categories of records in the system: Name, date of birth, exposure history, name of license holder, social security number.

Authority for maintenance of the system: 42 U.S.C. 2473; 44 U.S.C. 3101; 42 U.S.C. 2021, 2073, 2093, 2095, 2111, 2133, 2134, and 2201; 10 C.F.R., Part 20 for Federal Licensee; and Florida Administrative Code, Chapter 10 D-56 for State Licensee.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA to inform individuals of their approaching or exceeding radiation dose limits.

In addition to the internal uses of the information contained in this system of records the following are routine uses outside of NASA: (1) Disclosure to Air Force Radiation Protection Offices at Cape Canaveral Air Force Station, Florida and Vandenberg Air Force Base, California, to governmental and private license holders, and to NASA contractors using radioactive materials or ionizing radiation producing devices, to facilitate the protection of individuals; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B; (3) The Nuclear Regulatory Commission (formerly Atomic Energy Commission) may inspect records pursuant to fulfilling their responsibilities in administering and issuing licenses to use radiation sources.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Duplicate copies of the records are maintained for Kennedy Space Center by Pan American World Airways Occupational Medicine and Environmental Health Services. All records maintained by the KSC Biomedical Office or Pan American World Airways consist of 8 1/2 x 11 inch paper files.

Retrievability: Both files are indexed by name.

Safeguards: Records are personally supervised during the day and locked in the office at night. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. Part 1212.

Retention and disposal: Records are retained as long as the user custodian is employed in NASA programs and then destroyed.

System manager(s) and address: KSC Radiation Protection Officer; address same as shown for System Location.

Notification procedure: Individuals may obtain information from the System Manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R, Part 1212.

Record source categories: Individual is sole source.

APPENDIX A.

LOCATION NUMBERS AND MAILING ADDRESSES OF NASA INSTALLATIONS AT WHICH RECORDS ARE LOCATED.

Location 1.
National Aeronautics and Space Administration
Washington, DC 20546

Location 2
Ames Research Center
National Aeronautics and Space Administration
Moffett Field, CA 94035

Location 3
Hugh L. Dryden Flight Research Center
National Aeronautics and Space Administration
P. O. Box 273
Edwards, CA 93523

Location 4
Goddard Space Flight Center
National Aeronautics and Space Administration
Greenbelt, MD 20771

Location 5
Lyndon B. Johnson Space Center
National Aeronautics and Space Administration
Houston, TX 77058

Location 6
John F. Kennedy Space Center
National Aeronautics and Space Administration

Kennedy Space Center, FL 32899
Location 7
Langley Research Center
National Aeronautics and Space Administration
Langley Station
Hampton, VA 23665
Location 8
Lewis Research Center
National Aeronautics and Space Administration
21000 Brookpark Road
Cleveland, OH 44135
Location 9
George C. Marshall Space Flight Center
National Aeronautics and Space Administration
Marshall Space Flight Center, AL 35812
Location 10
NASA Resident Office-JPL
National Aeronautics and Space Administration
4800 Oak Grove Drive
Pasadena, CA 91103
Location 11
National Space Technology Laboratories
National Aeronautics and Space Administration
NSTL Station, MS 39529
Location 12
Wallops Flight Center
National Aeronautics and Space Administration
Wallops Island, VA 23337
Location 13
JSC White Sands Test Facility
National Aeronautics and Space Administration
P.O. Drawer MM
Las Cruces, NM 88001
Location 14
LeRC Plum Brook Station
National Aeronautics and Space Administration
Sandusky, OH 44870
Location 15
Michoud Assembly Facility
National Aeronautics and Space Administration
P.O. Box 29300
New Orleans, LA 70129

APPENDIX B

STANDARD ROUTINE USES - NASA

The following routine uses of information contained in systems of records subject to the Privacy Act of 1974 are standard for many NASA systems. They are cited by reference in the paragraph 'Routine uses of records maintained in the system, including categories of users and the purpose of such uses' of the FEDERAL REGISTER notice on those systems to which they apply.

Standard Routine Use No. 1 - LAW ENFORCEMENT - In the event that this system of records indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Standard Routine Use No. 2 - DISCLOSURE WHEN REQUESTING INFORMATION - A record from this system of records may be disclosed as a 'routine use' to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

Standard Routine Use No. 3 - DISCLOSURE OF REQUESTED INFORMATION - A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Standard Routine Use No. 4 - COURT PROCEEDINGS - In the event there is a pending court or formal administrative proceeding, any records which are relevant to the proceeding may be disclosed to the Department of Justice or other agency for purposes of representing the Government, or in the course of presenting evidence, or they may be produced to parties or counsel involved in the proceeding in the course of pre-trial discovery.

[FR Doc. 79-28855 Filed 9-18-79; 8:45 am]
BILLING CODE 7510-01-M

Federal Register

Wednesday
September 19, 1979

Part IV

# Department of Housing and Urban Development

Community Planning and Development, Office of Assistant Secretary

Reorientation of Comprehensive Planning Assistance Program

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**Office of the Assistant Secretary for Community Planning and Development**

**24 CFR Part 600**

**[Docket No. R-79-635]**

# Comprehensive Planning Assistance; Reorientation of Comprehensive Planning Assistance Program

**AGENCY:** Office of Community Planning and Program Coordination, HUD.

**ACTION:** Final rule.

**SUMMARY:** This rule focuses the Comprehensive Planning Assistance (701) Program more directly toward the achievement of the following three National Policy Objectives as expressed by the President in this Urban Policy statement to Congress on March 27, 1978: (1) conservation and improvement of existing communities; (2) expansion of housing and employment opportunities and choice for the poor, minorities and disadvantaged; and (3) promotion of orderly and efficient growth and development. Applicants will have wide discretion in selecting work activities so long as planning and management activities clearly relate to these three National Policy Objectives. Cooperative agreements are encouraged to further the implementation of plans by HUD and other Federal agencies, application requirements are reduced and unified planning for regions is encouraged. This rule is necessary because plans developed with Comprehensive Planning Assistance grants do not have a consistent focus and may even be in conflict with National policies. The rule is intended to insure that policies and plans developed with Comprehensive Planning Assistance funds are supportive of National Policy Objectives and that there is a coordinated program focus.

**EFFECTIVE DATE:** October 19, 1979.

**FOR FURTHER INFORMATION CONTACT:** Trudy P. McFall, Office of Community Planning and Program Coordination, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-6290.

**SUPPLEMENTAL INFORMATION:** On April 11, 1979, the Secretary of Housing and Urban Development published a notice of Proposed Rulemaking (44 FR 21738) to amend the basic regulations for the administration of the Comprehensive Planning Assistance Program (24 CFR 600). Comments were invited until May 11, 1979. A total of 25 comments were received. Each comment was carefully considered. The following is a summary of the comments, and the changes made to the proposed rule.

## Background

HUD emphasis on the National Policy Objectives builds upon the recently completed and approved land use and housing elements required of all applicants by statute. HUD will encourage applicants to use land use and housing elements as the basis for developing strategies to carry out National Policy Objectives. In support of this goal, HUD has awarded grants to 9 States and 10 Areawide Planning Organizations to demonstrate the techniques that may be used to carry out National Policy Objectives. The results of these demonstrations will be shared with applicants.

## Discussion of Comments

### *Section 600.5 Objectives*

Several comments were received concerning the program objectives. The comments were all primarily related to eligible activities and work programs and are responded to fully in those sections. To avoid confusion, a clarifying change has been made to reflect the fact that these objectives are applicable to both urban and rural areas.

### *Section 600.6 Cooperative Agreements*

Several commenters requested that the cooperative agreements approached be expanded to allow participation by applicants funded through the State and to include implementation of existing plans as well as plans to be developed. These changes have been made. One commenter suggested that bonus funding be provided to encourage the development of plans and cooperative agreements. Due to the limited funds available, this change has not been incorporated in the regulations. However, cooperative agreements could be cited by an applicant as evidence of its performance in implementing its plans and programs. Some comments indicated a lack of understanding of the nature of the cooperative agreement. These agreements are subject to the mutual acceptance of both HUD Area Managers and interested parties; encompass only the specific items agreed upon by the parties, including HUD review or participation in plan development or use; and contain no penalty if State, local or areawide organizations elect not to enter into them.

### *Section 600.7 Definitions*

Several comments were received concerning the definition of the word "distressed." Two commenters were concerned that the definition of distressed used by applicants may exclude certain types of distress. Others suggested using the definition of distress used by the Urban Development Action Grant program or that we impose a very specific definition.

An appeal process was also suggested in the event the definition used was considered unacceptable. These comments were not accepted. The objectives make clear the concerns of the program and applicants should not have difficulty in identifying the communities and places described by the "distressed" definition. The advisory processes already in place should be sufficient to allow full participation by all interested parties. To further define distress would reduce the flexibility being sought with these regulation changes.

### *Section 600.10 Financial Support*

Several comments were received concerning the factors used in determining financial support. There were objections to the use of demography, particularly land area since it penalizes smaller jurisdictions.

Identification of weighting factors to be used was requested by two commenters. It was suggested also that performance be judged on the basis of the powers of the applicant. Two commenters suggested that the qualifications concerning the issuance of an authorization to incur costs be deleted. One commenter recommended that the project period for subgrantees be extended from 12 to 24 months. The incur cost authorization has not been changed. HUD cannot guarantee funding under circumstances in which it has no assurance that funds will subsequently be appropriated. The proposed demography factors have been deleted since they are already included in the National distribution formula and HUD wishes to emphasize applicant performance rather than demographic data in making individual agency funding allocations. The funding determination section has been expanded to make clear that these factors will be used to determine who will be assisted as well as how much assistance will be provided. Minimum size grants may also be established by the Secretary when insufficient funds are available to fund all applicants. In lieu of demography, an applicant's comprehensive planning process required by § 600.67(a) will be

evaluated. The implementation section has been clarified to make clear HUD's concerns regarding the use of plans. A cross-reference to § 600.145 has been added, since this section more fully identifies the factors to be considered in HUD evaluation. These criteria will not be used until FY 1980 and the rating form to be used will be discussed with applicants.

*Section 600.40 Grants for Areawide Planning and Management Assistance*

One comment was received concerning the possibility that proportional representation would decrease minority participation on areawide boards. Two comments objected to the waiver of board composition to achieve unified planning organizations. Another commenter suggested that board composition be left up to local discretion. One comment suggested changes in areawide organizations which were beyond the scope of these amendments. This section has not been changed. The proportional representation is only encouraged. The waiver provision has been maintained because the potential benefits outweigh the potential problems that might occur if a waiver were granted. The Department feels strongly that a single unified planning organization is desirable and to be encouraged.

*Section 600.55 Eligible activities*

Four comments were received concerning this section. They included a failure to give recognition to State technical assistance activities, the need to more closely link strategies to the overall program design, moving the definition of strategy to the definition section, and to make clear that grants may also be made for demonstration and special programs. All of these suggestions have been incorporated in the regulations with the exception of moving the discussion of strategy to the definition section. This discussion is so closely linked to the composition of eligible activities that it has been retained in Section 600.55.

*Section 600.66 Historic Preservation Requirements*

One comment was received objecting to the application of these requirements to only physical development planning. The requirement has been changed to make clear that this section is applicable to any funded activity that may have an adverse impact on historic properties or districts. A comment was also received objecting to the requirement for a program of actions to avoid adverse impacts. This paragraph has been revised only to require the consideration of alternatives to avoid or mitigate adverse impacts since specific programs of action would not be appropriate at this stage in planning. A suggestion was made that this section be deleted in favor of a reference to the regulations of the Advisory Council on Historic Preservation 36 CFR part 63. This suggestion was rejected since it would further complicate matters for 701 applicants attempting to satisfy program requirements.

*Section 600.73 Land Use and Housing Elements; Review and Approval Process*

One comment was received concerning some additional subparagraphs with incorrect references. These corrections have been made in § 600.73(c) (4) and (5).

*Section 600.81 Interchange of Cartographic Data*

Four commenters objected to the requirements of this section as being too costly, complicated and broad in scope. The cost is minimal. If new maps are to be developed, an applicant need only identify its needs and provide the information to USGS. If USGS has or knows of existing maps that will meet the needs, the applicant will be so advised. If acceptable maps are not available, the applicant may develop them. Upon completion of the maps, the applicant need only advise USGS of what maps were prepared and how they may be obtained by others having need of the maps. We believe that this procedure is a simple cost-effective method of avoiding duplication in mapping activities. It does not include activities that do not generate new base maps, e.g., adding data to existing base maps, etc.

*Section 600.90 Steps for Application Submission, Negotiation, and Approval*

Comments were received concerning the difficulty of complying with the requirement that chief executive officers participate in negotiations with HUD and that such negotiations may not always be necessary. These comments were accepted and the requirements have been relaxed. A further change was made concerning the addition of cooperative agreements as a relevant topic of the negotiation conference. This is not intended to limit cooperative agreement discussions to negotiation sessions, but to provide an additional opportunity to explore potential agreements.

*Section 600.95 Applications By States*

Two commenters questioned the intent of the required reference of substate applicants in the State OPD, particularly those that are eligible to apply directly to HUD. This section has been changed to make clear that the substate portion of the State OPD is to be developed in accordance with § 600.115(d).

*Section 600.100 The Application Package*

Several commenters noted that the proposed rule called for the submission of an OPD every fourth year and recommended that they be changed to every third year to be consistent with the triennial review period. This change has been made. An OPD will cover a three year period. At the end of the three year period a new OPD will be prepared to cover the next three years.

*Section 600.105 Overall Program Design*

There were several comments on this section mostly very supportive of the changes made. One comment complained of the timing of the final rule precluding compliance with the proposed change in this year's application. HUD field offices were authorized to make FY 1979 grants beginning on May 25, 1979. Applicants may elect to use existing application formats or to follow the procedures prescribed in this regulation. One comment suggested that provisions be added regarding revisions or amendments to an OPD. Revisions to applications are provided for in HUD Handbook II, 6042.1 Rev., Managing A Grant, This Handbook was published in the Federal Register, Subpart G of the regulations, on April 16, 1979 (44 FR 22666) for public comment. If additional provisions are deemed appropriate, they will be incorporated in Subpart G. One commenter questioned what was meant by intermittent applicants and which applicants had to prepare an OPD. This section has been clarified to indicate that new (first-time) applicants and those that are not funded every year, e.g., localities, Indian tribes, special needs, applications, etc. do not need to prepare OPD's. One commenter pointed out that although the summary of the regulations claimed greater flexibility for applicants in organizing the OPD, this section prescribed a rigid format. This requirement has been changed to provide the desired flexibility. The OPD and the annual work program must describe how the National Policy Objectives are to be addressed. HUD also wishes to use this flexibility to further encourage the development of unified work programs involving other Federal planning assistance programs.

*Section 600.107 Annual Work Program*

Three comments questioned how localities would address all three objectives since they are not funded each year. The regulation has been clarified to indicate that localities need not address all of the objectives, but that States must ensure that a portion of the local assistance funds is used to support each of the three objectives. Under this provision, three different localities may focus on three different objectives and achieve the goal of addressing all of the objectives.

*Section 600.115 State Overall Program Design*

Opposition to the use of HUD criteria in State allocation systems was expressed by one commenter. This section has been revised to indicate those factors that must be included in State allocation systems and allows States to add additional criteria in consultation with the advisory group required by § 600.120(b).

*Section 600.120 Summary of Substate Planning and Management Assistance Procedures*

Two commenters objected to the requirement that the State submit copies of the OPD's and/or annual work programs of applicants voluntarily applying to the State. This requirement has been deleted. However, HUD intends to closely monitor the activities of voluntary applicants. One commenter recommended placing a limit on the amount of substate assistance that can be used by States for administrative costs and to finance technical assistance activities. Because of the great variation in State programs and relationships with local governments this was not considered feasible. HUD will however, increase its monitoring of State use of substate funds to ensure that reasonable amounts are passed through to localities and that the policies established by States for the use of substate funds are developed in accordance with § 600.120(b).

*Section 600.135 State Review and Evaluation*

One commenter objected to the use of HUD criteria to evaluate substate applicant performance. This section has been revised to retain only those HUD criteria which are necessary for sound program management.

*Section 600.135 State Review and Evaluation*

One commenter objected to the use of HUD criteria to evaluate substate applicant performance. This section has been revised to retain only those HUD criteria which are necessary for sound program management. Additional criteria may be added by the State in consultation with its advisory group.

*Section 600.145 Evaluation and Review*

This section has been revised to reflect the changes made in § 600.10(d). this section identifies the specific areas of concern that HUD will review in making its annual applicant performance evaluation. Several commenters were concerned that reference to certain non-mandatory items, i.e., interchange of mapping data and interagency agreements would result in reduced rankings if they had not been addressed. These items have been deleted and a reference added to program requirements. Applicants will be judged on the basis of compliance with mandatory requirements.

*Section 600.160 OMB Circular A-95 Coordination Procedures*

An explanation has been added as to the proper procedures to be followed in meeting the A-95 requirements. This simply repeats the existing requirements presently in effect for the convenience of 701 applicants.

*Section 600.170 Relationship of the A-95 Review Procedures to Implementation of 701 Funded Plans and Priorities*

One commenter indicated that the 701 regulations do not recognize the relationship between 701 implementation and the A-95 review process. Section 600.170 has been revised to express the importance of the A-95 process in achieving Federal, State and local goals. This statement also expresses HUD's intention to make maximum use of the A-95 comments received to ensure implementation of 701 funded planning.

*Appendix 1*

The appendix has been revised to reflect the appropriateness of considering the needs of handicapped persons in the course of preparing 701 assisted plans.

The Department has determined that an environmental impact statement under the National Environmental Policy Act is not required with this rule.

Accordingly, Title 24 CFR Part 600 is amended as follows:

1. Section 600.5 is revised to read as follows:

**§ 600.5 Objectives.**

The purpose of the Comprehensive Planning Assistance program is to assist recipients to undertake comprehensive planning and management strategies which further the following National Policy Objectives in urban and rural areas:

(a) The conservation and improvement of existing communities by correcting or modifying conditions of distress, blight or decline;

(b) Increasing housing and employment opportunities and choice for the poor, minorities and disadvantaged; and

(c) The promotion of orderly and efficient growth and development which prevent future conditions of distress and conserve existing communities.

2. A new § 600.6 is added to Subpart A to read as follows:

**§ 600.6 Cooperative agreements.**

(a) *Intent.* It is HUD's intent to encourage the development of plans which have relevance and utility for Area Office's decision-making and to facilitate the implementation of plans developed by applicants. This will be accomplished by encouraging applicants funded by HUD or by the State to enter into agreements with HUD Area Office Managers regarding existing plans and/or the development of plans and their use by HUD Area Offices.

(b) *Contents of agreements.* Applicants, and the HUD Area Office Manager or Managers covering their jurisdiction may agree to specific plans, data, policies or priorities which would be useful to the HUD Area Office Managers in making funding or other decisions for HUD Programs for which they have responsibility. If such plans, data, policies or priorities exist or are developed and adopted by the applicant as agreed to, HUD will follow them as specified in the agreement in its decision-making. Such plans and policies must be consistent with the National Policy Objectives contained in § 600.5 and the assisted activities must be eligible under § 600.55.

(c) *Form of agreements.* Where such agreements are entered into by HUD and the applicant, they shall be in writing and clearly state for existing plans and/or those to be developed by the applicant, both the contents of the plans, policies or priorities and HUD's intended use of them. Provision for HUD participation in plan refinement, development and review may be spelled out in the agreement. Additional matters deemed appropriate by the parties to the agreement may also be included.

(d) *Plan implementation assistance.* Cooperative agreements may include not only how HUD will use the plans in its own decision-making but also how HUD will assist the applicant in implementing its plan with other Federal agencies. HUD shall encourage and

facilitate to the maximum degree possible interagency coordination in the implementation of the applicant's plans and policies.

3. In § 600.7 a new paragraph (f) is added, paragraphs (f) through (q) are redesignated (g) through (r) and redesignated paragraphs (g) and (k) are revised to read as follows:

**§ 600.7 Definitions.**

* * * * *

(f) "Distressed", for purposes of this Part, means communities or places within a State or region which the State or areawide planning organization determine require greater attention and assistance than other communities or places within the State or region because of their relatively greater proportion of physical, social and economic problems. Factors indicating distress may include, but need not be limited to, income levels, unemployment rates, fiscal disparity, population change, economic base change, declining revenue base, poverty and dependent population, percentage of population requiring public assistance and substandard housing units.

(g) "Indian tribal group or body" means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638) or under the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92–512).

* * * * *

(k) "Ongoing comprehensive planning process" means a process, which includes chief executive leadership, coordination and citizen involvement where major plans, policies, priorities, or objectives are being determined and that involves the development and subsequent modification of a comprehensive plan and provides for at least triennial review of the elements thereof for necessary or desirable amendments. For the purposes of this Part, the comprehensive plan shall include, as a minimum, the housing and land use elements described in §§ 600.70 and 600.72.

* * * * *

4. In § 600.10 paragraphs (c) and (d) are revised to read as follows:

**§ 600.10 Financial support**

* * * * *

(c) *Project period.* Grant assistance will ordinarily cover a 12-month work period, but may cover a different period in appropriate cases. HUD may authorize applicants to incur costs prior to the award of a grant in appropriate cases. An authorization to incur costs will not obligate HUD to make a grant nor to reimburse the applicant for costs incurred if a grant is not made. A grant, if made, will be subject to a HUD determination of the eligibility of costs incurred and to any other conditions included as a part of the authorization.

(d) *Funding determinations.* The decision to fund or not fund an applicant and the amount of assistance to be provided will be based on the amount of funds available and the criteria in (1) to (4) below. When there are insufficient funds to assist all applicants, those ranking highest on the basis of the criteria will be funded. The Secretary may establish minimum grant sizes when the amount of funds available are considered inadequate to assist all applicants. The specific factors to be reviewed in assessing an applicant's performance relative to the following criteria are more fully detailed in § 600.145. A performance evaluation system description will be provided to applicants in advance of the review.

(1) *Performance in Plan Development and Endorsement.* The degree to which an applicant has developed and is maintaining a comprehensive planning process. In evaluating this criteria, HUD will assess the extent to which the applicant's planning process results in the development of plans, policies and programs which identify problems, needs and objectives; address difficult or controversial issues; are periodically up-dated to reflect changing needs and priorities; and are adopted and/or endorsed by appropriate State and local governmental decision-makers or bodies. HUD, in evaluating performance in plan development and endorsement, will place increasing emphasis on the degree to which applicants' plans, programs, and policies are directly related to National Policy Objectives.

(2) *Performance in Planning Implementation and the Use of Plans.* The degree to which an applicant has or is implementing its plans, policies and programs. In evaluating this criteria, HUD will look for evidence that the applicants' planning process is or has made impact upon local, Federal and State public decision-making and has affected the decisions or actions of private enterprise and citizen groups. This will include the degree to which program objectives have been achieved, the grantee's ability to achieve improvements in public services and facilities consistent with its planning recommendations, and the degree to which housing and land use objectives have been or are being achieved.

(3) *Coordination performance.* An applicant's prior success and continuing performance in coordinating the development and implementation of policies and strategies by various agencies within its jurisdiction and by other levels of government. In evaluating coordination, HUD will emphasize the pursuit of common strategies in aiding distressed areas, improving housing and employment opportunites and fostering orderly growth.

(4) *Program management performance.* An applicant's ability to manage program funds properly. The following factors, at a minimum, shall be included:

(i) ability to undertake work for which assistance is requested;

(ii) compliance with requirements for fiscal management and accountability for the use of program funds;

(iii) timely completion of all projects, and submission of program reports; and

(iv) compliance with all general and special program requirements.

5. In § 600.25 paragraphs (c) and (d) are revised to read as follows:

**§ 600.25 Who may be assisted.**

* * * * *

(c) *Large cities.* Although eligible for assistance, large cities will not be funded. This decision is based on Congressional intentions that large cities should use their Community Development Block Grant (CDBG) funds for planning consistent with 24 CFR Part 570.205.

(d) *Urban Counties.* Although eligible for assistance, urban counties will not be funded. This decision is based on Congressional intentions that urban counties should use their CDBG funds for planning consistent with 24 CFR Part 570.205.

* * * * *

6. In § 600.40 paragraph (b)(2)(iv) is revised and new paragraphs (b)(2)(v) and (b)(3) are added to read as follows:

**§ 600.40 Grants for areawide planning and management assistance.**

* * * * *

(b) * * *

(2) * * *

(iv) Provide that at least two-thirds of the voting membership be composed of, or responsible to the elected officials of a unit of general local government within the planning jurisdiction. HUD will consider a waiver of this requirement at the request of the applicant on a case by case basis. Where HUD determines that it impedes the development of a unified organization meeting other Federal

organizational requirements, HUD will waive this requirement. Applicants are encouraged to foster the development of unified organizations and to seek HUD assistance and cooperation in doing so.

(v) Provide, to the maximum extent possible, proportional representation for minorities, and adequate representation for women.

(3) *Proportional representation.* HUD strongly encourages areawide planning organizations to provide for proportional voting representation on the basis of population.

7. Section 600.55 is revised to read as follows:

**§ 600.55 Eligible activities: All applicants.**

(a) *Relation to Program Objectives.* (1) Beginning with FY 1979, the Department will award grants only for those planning and management activities which clearly further the National Policy Objectives listed in § 600.5. Activities which HUD finds are not clearly related to these objectives will not be funded. Applicants shall have the discretion to select work tasks and activities which relate to their local needs and priorities, so long as all work can be shown to be clearly related to conserving and improving existing communities, expanding housing and employment opportunities, and promoting orderly growth. Demonstration, Indian assistance, and special needs grants may be awarded for such purposes as are deemed appropriate by the Secretary.

(2) The specific activities undertaken should comprise or contribute to a State, areawide, or local strategy directed toward the National Policy Objectives. A strategy consists of a coordinated and consistent set of action oriented plans, policies, programs and related implementation activities which are directed toward achieving the National Policy Objectives. In the case of States and local governments, a strategy would include the adoption of plans and policies, the coordinated use of the powers to tax, spend, regulate, legislate and administer, the provision of technical assistance and services and the coordination of Federal, State and local programs. In the case of areawide planning organizations, a strategy would include the adoption of plans and policies, the establishment of priorities, recommendations for needed programs and legislative changes, the promotion of intergovernmental cooperation, and the provision of services and technical assistance in support of the National Policy Objectives.

(3) The strategies of all applicants should emphasize coordination of federal, State and local programs directed toward the achievement of the Program Objectives.

(b) *Eligible Activities.* In combination, Section 701 (b), (c), and (m)(4) of the Housing Act of 1954, as amended, define the planning and management activities that are eligible for Comprehensive Planning Assistance grants. These activities, which should be part of a coordinated strategy to achieve National Policy Objectives, are:

(1) *Developing comprehensive plans and processes,* including:

(i) Identification of economic, physical and social needs within the jurisdiction;

(ii) Establishing or revising long term goals and short term objectives;

(iii) Formulating comprehensive plans, policies, and priorities to meet identified needs;

(iv) Preparing or revising a housing element, as part of a comprehensive plan, pursuant to Section 600.70;

(v) Preparing or revising a land use element, as part of a comprehensive plan, pursuant to Section 600.72;

(vi) Preparing any other comprehensive plan elements such as for commercial or industrial development, community facilities and services, transportation, economic development, social services, parks and recreation, energy conservation, public utilities or facilities, flood protection, environmental or historic preservation, natural resource protection, or government services.

(2) *Implementation of comprehensive plans and policies,* including:

(i) Preparation of regulatory or legislative measures;

(ii) Setting public and private investment priorities;

(iii) Design of legislative, fiscal, administrative or structural reform;

(iv) Capital improvement programming;

(v) Coordination of the implementing programs;

(vi) Evaluation of progress in achieving the comprehensive plan/strategy and relative effectiveness of each implementing measure.

(3) *Developing or improving the recipient's capacity for policy planning and evaluation,* particularly for the Chief Executive Officer. Policy planning and evaluation include the analytical ability of a recipient to identify its needs and problems more rationally, set long term policy goals and short term objectives to meet its needs, devise programs and activities and evaluate its progress towards meeting those goals and objectives. Development of such capacity may involve, e.g., studies to identify problems in one or more policy areas; strengthening budgeting systems; improving capability to gather, process and analyze data necessary for rational decisionmaking; devising programs and reorganizing governmental structures, and strengthening the capacity for analyzing the impact of programs in meeting policy objectives.

(c) *HUD Suggested Activities.* In order to provide direction to applicants and to illustrate the kinds of activities the Department has determined to be clearly related to achieving the National Policy Objectives, and to provide a more precise guide for negotiating annual grants, the Department offers a list of suggested activities that grantees, at their option, may undertake. Appendix I to this Part contains a list of activities. The list is not intended to be an exclusive list of eligible activities. Applicants may undertake other activities which are clearly related to the National Policy Objectives.

8. Section 600.65 is revised to read as follows:

**§ 600.65 Environmental requirements.**

(a) *Requirements.* This subsection applies to planning and management activities, funded in whole or part by a Comprehensive Planning Assistance grant, which directly relate to physical development policies and programs of the applicant. Such physical developmental planning and management must conform to the provisions of the National Environmental Policy Act of 1969. For such activities, applicants must include in their comprehensive planning process adequate consideration of environmental problems, and formulation of policies and programs to address such problems to assure that environmental matters are addressed during the comprehensive planning process.

(b) *Inclusion of Environmental Planning in the Comprehensive Planning Process.* Each applicant throughout all phases of the physical developmental planning aspects of its assisted comprehensive planning work must:

(1) Identify environmental problems and issues, including applicable Federal, State and local environmental policies and standards, which it determines to be of major significance within the planning area; examples of the types of issues which may need to be considered include: land resources, air and water quality, noise, flood plain management, wetlands and historic preservation.

(2) Identify and analyze any adverse environmental effects which cannot be avoided, resulting from proposed developmental policies and programs;

(3) Formulate policies and programs, including possible alternative solutions, to address such problems, and

(4) Identify Federal, State and local environmental programs and mitigation measures which can assist in alleviating identified problems and indicate how such resources and mitigation measures shall be utilized.

9. Section 600.66 is revised to read as follows:

**§ 600.66 Historic preservation requirements.**

This section applies to physical development planning and management activities, funded in whole or part by a Comprehensive Planning Assistance grant, or any other type of funded activity, which may adversely impact any property or district included in, or found by the Secretary of the Interior pursuant to 36 CFR Part 63 to be eligible for inclusion in, the National Register of Historic Places. Where the applicant determines that assisted planning and management activities are likely to impact on such properties, an applicant must:

(a) Consult with the appropriate State Historic Preservation Officer, designated under agreements between the State and the Secretary of the Interior, concerning action to be taken to avoid the adverse impacts on the property or district; and

(b) Consider or propose alternative policies or plans to mitigate or avoid the adverse impacts on the property or district.

(c) Where the proposed plans are general or cover a large area (city, county, region or State) include general types of mitigation or safeguard actions that should be observed in planning the development of those specific sectors which contain National Register properties.

10. In § 600.67 paragraphs (b) and (c) are revised to read as follows:

**§ 600.67 Comprehensive planning requirement.**

* * * * *

(b) *Comprehensive plan requirement.* Each recipient of assistance shall develop a comprehensive plan that, over time, addresses the elements of comprehensive planning as described in § 600.53 as the recipient determines to be appropriate to its needs and responsibilities. Such plan shall include, as a minimum, a housing element and a land use element, which elements shall be consistent with each other and with stated national policy objectives including the President's National Urban Policy. The elements shall specify broad goals and annual objectives (in measurable terms wherever possible); programs designed to accomplish the objectives and procedures, including criteria set forth in advance for evaluating programs and activities to determine whether the objectives are being met.

(c) *Limitations.* No grant shall be made to any applicant identified in § 600.25(a) through (f) unless the applicant has satisfied the requirements of the housing and land use elements in § 600.70 and 600.72, except that this prohibition shall not be applicable if the applicant has never been a prior recipient of a comprehensive planning grant (other than a special needs grant pursuant to § 600.50). For the purpose of making the determination whether an applicant has received a prior 701 grant, a 701 grant is defined as (1) The use of 701 funds by or on behalf of a recipient who provides all or a portion of the non-Federal match or (2) The use of 701 funds to support a recipient's staff regardless of who provides the non-Federal match. Services, financed in whole or in part with 701 funds, provided at no cost to recipients are not considered grants.

* * * * *

11. In § 600.70 paragraph (c) is deleted and paragraph (d) is redesignated as paragraph (c).

**§ 600.70 Required housing element.**

* * * * *

(c) Agreements for housing planning.

* * * * *

12. In § 600.72 paragraph (d) is deleted and paragraph (e) is redsignated as paragraph (d).

**§ 600.72 Required land use element.**

* * * * *

(d) Agreements for land use planning.

* * * * *

13. In § 600.73 paragraphs (c)(4)(5), (f)(4) and (5), (k) and (l) are revised to read as follows:

**§ 600.73 Land use and housing elements; review and approval process.**

* * * * *

(c) * * *

(4) *Environmental requirements: All applicants.* Section 600.65(b)(1) through (4).

(5) *Historic preservation requirements: All applicants.* Section 600.66.

* * * * *

(f) * * *

(4) Section 600.65—Environmental requirements describing the environmental considerations required for developmental plans or policies including land use and housing plans and policies.

(5) Section 600.66—Historic preservation requirements describing the historic preservation consideration required for plans or policies which may impact properties included in, or found by the Secretary of Interior purusant to 36 CFR Part 63 to be eligible for inclusion in the National Register, including land use and housing plans and policies.

* * * * *

(k) *HUD review of State approvals of required elements.* (1) HUD shall review and concur in all State actions on land use and housing elements for an applicant applying to the State on a voluntary basis pursuant to § 600.120(j): A state may not award any grants to such an applicant, except as provided in § 600.67(c) until HUD concurrence has been obtained on the State approval of the applicant's land use and housing element. When mutually agreeable between HUD and the State, a joint review and approval process is encouraged to facilitate the review of land use and housing elements for applicants applying to the State on a voluntary basis.

(2) For monitoring purposes HUD will also selectively review State actions on applicants required to apply to the State.

(1) *Triennial review.* Each applicant whose land use and housing elements are approved pursuant to this section shall submit an evaluation to HUD or the State triennially, beginning no later than three years from the date the last element was approved.

(1) *Applicant's evaluation.* The evaluation of progress shall indicate:

(i) the extent to which the comprehensive plan (including land use, housing and any other elements) is consistent with the National Policy Objectives;

(ii) actions taken to implement HUD approved land use and housing elements, and other elements of the comprehensive plan or strategies which are consistent with the National Policy Objectives;

(iii) relative effectiveness and impacts of actions taken to implement the comprehensive plan, its elements or strategies; and

(iv) the reasons for lack of implementation, where such actions have not been carried out.

(2) *Triennial review criteria.* HUD or the State will review the applicant's evaluation and otherwise monitor applicant performance in order to determine:

(i) progress in achieving the National Policy Objectives through implementation of comprehensive plans or strategies;

(ii) potential need for technical assistance to the applicant regarding:

(*a*) failure to address the National Policy Objectives adequately and additional actions to be taken to achieve consistency with National Policy Objectives;

(*b*) the relationship of the applicant's strategies to other State, areawide or local strategies and implementation actions, and

(*c*) the feasibility and utility of comprehensive plans or strategies as aids for administration of Federal, State, and local housing and community and economic development programs.

14. A new § 600.77 is added to Subpart B to read as follows:

**§ 600.77 Handicapped requirements.**

Recipients of Comprehensive Planning Assistance shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, regarding nondiscrimination based on Handicapped in programs or activities receiving Federal financial assistance.

15. In § 600.80 paragaraph (a) is revised to read as follows:

**§ 600.80 Citizen involvement.**

(a) *Requirement.* The ongoing comprehensive planning process required by § 600.67 shall make provision for citizen involvement where major plans, policies, priorities, or objectives are being determined. Consideration must be given to insuring that handicapped citizens may also participate in this process.

* * * * *

16. A new § 600.81 is added to Subpart B to read as follows:

**§ 600.81 Interchange of cartographic data.**

(a) *General.* HUD and the U.S. Geological Survey (USGS) have agreed to establish procedures for the interchange of cartographic data to support the needs of HUD and other Federal programs. USGS will provide 701 grantees with information on basic cartographic data from existing sources, and in turn cartographic data generated by 701 grantees will be entered into the USGS data bases and made available to other users.

(b) *Implementation.* Applicants proposing to undertake mapping projects as part of the program shall comply with the following procedures.

(1) Submit the specific needs for aerial photographs and/or base map data to the USGS National Cartographic Information Center (NCIC) on the Cartographic Information Inquiry form available from HUD or USGS.

(2) Conduct a local search to determine whether other suitable cartographic data is available.

(3) Determine from the USGS response, which will be made within 30 days on a Cartographic Information Response form, and the local search whether existing aerial photographs and base map sources can serve the needs identified.

(4) Include a copy of the USGS response with the application for 701 assistance.

(5) Submit to USGS, and to HUD as a part of the Project Completion Report, a copy of the Cartographic Products Description Report form that will be enclosed with the USGS response to the initial inquiry.

(c) *Funding limitation.* HUD will not fund any mapping activities that are undertaken without following the procedures in (b) hereof.

17. In § 600.90 paragraphs (b) and (d) are revised to read as follows:

**§ 600.90 Steps for application submission negotiation and approval.**

* * * * *

(b) Notification of the appropriate designated clearinghouse(s) of the intent to submit an application consistent with OMB Circular A–95. Notification to USGS of proposed mapping activities in accordance with § 600.81, if appropriate.

* * * * *

(d) Holding a negotiation conference with HUD officials. The Governor, mayor, or city or county executive or the highest policy officer of an areawide planning organization should be represented at the negotiation conference. Negotiations with HUD, when necessary, will focus on:

(1) Relevance of the proposed activities to the National Policy Objectives of § 600.5;

(2) Applicant performance relative to the criteria of § 600.10(d);

(3) Relationship of proposed activities to the applicant's three year overall program design required by § 600.105 and

(4) Cooperative agreements to be undertaken as is provided for under § 600.6.

* * * * *

18. Section 600.95 is revised to read as follows:

**§ 600.95 Applications by States.**

States are required to submit a single application which shall include sections for statewide planning, assistance to legislatures, if applicable, and for substate assistance as is required by § 600.115(d). Substate applicant categories (large city, urban county, metropolitan, nonmetropolitan and locality). States may request separate grants based upon one Overall program design.

19. In § 600.100 paragraphs (b) and (c) are revised to read as follows:

**§ 600.100 The application package.**

* * * * *

(a) Application for Federal Assistance (Standard Form 424);

(b) Overall Program Design, as described by §§ 600.105 and 600.115, shall be submitted, beginning in FY 1979, to cover a 3 year period. At the end of the 3 year period, a new Overall Program Design shall be submitted which covers the next three year period;

(c) Annual Work Program, as described in § 600.107, and Annual Work Program Summary (Form HUD–7026.2) listing all subcategories (or portions thereof) to be undertaken during the first work year.

* * * * *

20. Section 600.105 is revised to read as follows:

**§ 600.105 Overall Program Design.**

(a) *Content.* The Overall Program Design (OPD) is a statement of the objectives the applicant intends to achieve over the next three years with Comprehensive Planning Assistance, as well as with other Federal or non-Federal assistance. The OPD must address the objectives identified in § 600.5. An OPD shall be submitted to cover a 3 year period except for new, first time applicants, and those that are not funded annually who need only prepare an annual work program.

(b) *Format.* The format of the OPD may take any form deemed appropriate by the applicant provided it conveys how all work to be funded with 701 clearly relates to the National Policy Objectives including:

(1) The applicants key issues, problems and opportunities, including at a minimum, those related to the National Policy Objectives;

(2) The brief statement of the applicants' goals relative to the issues identified in (1) above;

(3) The objectives, in measurable terms, that will be undertaken within the next three years in support of the goals identified in (2) above;

(4) The source of funds to be used in support of the objectives including local funds and other Federal assistance on the annual work program summary (Form HUD–7026.2); and

(5) A narrative statement of how the proposed goals and objectives address all of the National Policy Objectives § 600.5 over the three year period of the OPD or an explanation of how one or more of the National Policy Objectives

has been achieved or needs no further work.

21. A new § 600.107 is added to Subpart C to read as follows:

**§ 600.107 Annual work program.**

An annual work program shall be submitted as part of each application. The annual work program shall describe the activities proposed to be undertaken in the upcoming program year. It shall include the following information:

(a) *Work elements.* A brief identification of major work elements to be conducted to achieve program objectives. Over a three year period, activities must be undertaken to further the achievement of each of the National Policy Objectives identified in § 600.5 consistent with the overall program design. All National Policy Objectives need not be addressed each year. However, over the span of the three years covered by the OPD, activities must be carried out in support of each of the three National Policy Objectives unless an applicant has shown in the OPD that one or more of the objectives has been achieved and needs no further work. Annual work programs of individual localities must also be clearly related to the National Policy Objectives. Locality work programs need not address all three objectives since their programs are usually limited to one year or less and they are not funded each year. States, however, must assure that funds awarded to them for pass-thru to localities, in the aggregate, support all three National Policy Objectives.

(b) *End products.* A brief statement of the end products and anticipated impacts of the proposed work activities.

(c) *Coordination statement.* A brief statement which describes how the applicant will coordinate its work elements with related activities being performed by other agencies, other levels of government, or the private sector, in support of the Objectives in § 600.5.

(d) *Citizen involvement statement.* A brief statement of how the applicant will meet the citizen involvement requirements of § 600.80.

(e) *Mapping response.* For applicants proposing to undertake the preparation of base maps or aerial photography, a copy of the U.S. Geological Survey response as required by § 600.81.

22. In § 600.115 paragraph (d) is revised to read as follows:

**§ 600.115 State overall program design.**

* * * * *

(d) A section developed in consultation with the advisory group required by § 600.120(b), that addresses the following:

(1) State strategies and objectives for the use of substate assistance which clearly relate to the objectives in § 600.5 and state and substate needs;

(2) Identification of the responsibilities of all units of government for implementing State, regional and local strategies clearly supporting objectives in § 600.5;

(3) State allocation systems to be used in determining grant awards to substate applicants applying to the State, which shall be developed in consultation with the advisory group required by § 600.120(b), must include, but are not limited to, the following:

(i) Criteria to ensure that, in the aggregate, local assistance funds are used in support of all three of the National Policy Objectives of § 600.5;

(ii) The degree to which areawide applicants are responsive to all three National Policy Objectives of § 600.5;

(iii) The degree to which applicants are responsive to State policies and priorities and the consistency of plans among levels of government;

(iv) An evaluation of areawide use of plans and coordination of activities; and

(v) The adequacy of program management and the degree to which special program requirements are satisfied.

23. In § 600.120 paragraphs (a), (e), (h) and (j) are revised to read as follows:

**§ 600.120 Summary of substate planning and management assistance procedures.**

* * * * *

(a) Intent. It is HUD's intent to give States major responsibility and discretion, in consultation with substate applicants, for administering a program of planning and management assistance and services for substate applicants required under § 600.25, or electing to apply to the State under paragraph (j) of this section. HUD's main concern will be with the State's administration of substate assistance and services according to the requirements of this Part.

* * * * *

(e) *OPD section copies.* State shall provide each substate applicant eligible to apply directly to HUD a copy of the section of the OPD required by § 600.115(d). Substate applicants required by law to apply to the State shall be provided copies at the time they make inquiry for assistance.

* * * * *

(h) *Annual grant budget.* The grant amounts for substate categories will be included in the State annual grant and will appear as subtotals in the annual grant budget (Form HUD 7026.3). States may use a reasonable portion of the metropolitan, nonmetropolitan and local assistance funds they are administering to defray the cost of its administration. The amount to be used for such purpose must be negotiated with HUD and should be identified separately in the annual grant budget. States may also use a portion of local assistance funds to provide services to substate governments. The amount of local assistance funds proposed to be retained for such services shall be reviewed in the State consultation with its advisory group and approved by HUD. A portion of the funds budgeted for localities may be utilized by States or areawide planning organizations to provide services through their own staff. Reasonable opportunities shall be provided to localities to use local staff or to obtain the professional services of public or private consultants.

* * * * *

(j) *Voluntary agreements.* Substate applicants who are eligible to apply directly to HUD may decide voluntarily to enter into agreements with States providing for State administration of 701 grant funds. The substate applicant's decision must be communicated to the State in writing and be endorsed by the Chief Executive Officer, or in the case of an areawide planning organization, the highest policy officer. Once a substate applicant has committed itself in the manner indicated above, it may not change its decision during the Federal fiscal year in question. The State shall accept or reject substate requests for State administration and notify HUD by the date annually established by HUD. The State notification to HUD must identify the applicants to be assisted by the State and include copies of the substate applicant requests.

* * * * *

**§ 600.130 [Revoked]**

24. Section 600.130 is revoked.

25. Section 600.135 is revised to read as follows:

**§ 600.135 State review and evaluation.**

The State shall review the planning activities of recipients on a continuing basis. The State review must include, but is not limited to, the following:

(a) Applicant performance relative to the criteria of § 600.10(d); and

(b) Applicant progress in achieving the National Policy Objectives of § 600.5.

26. Section 600.145 is revised to read as follows:

**§ 600.145 Evaluation and review.**

(a) *Annual HUD evaluation.* HUD will annually evaluate each applicant's

performance. This evaluation will serve as a major factor in making a determination pursuant to § 600.10(d). The major factors to be considered in the evaluation are as follows:

(1) Performance in Plan Development and Endorsement.

(i) Grantee's progress in developing and adopting or endorsing plans, policies and programs and establishing priorities through the development of investment strategies, development standards or criteria and laws and ordinances in support of identified objectives;

(ii) Grantee's progress in up-dating plans, policies and programs, particularly those designed to conserve existing housing and communities, effectively guide major decisions as to where growth and development should and should not take place, and increase housing opportunities and choice.

(iii) The degree to which plans, policies and programs are increasingly related to the National Policy Objectives.

(2) Performance in planning implementation and use of plans.

(i) Assessment of grantee's ability to initiate programs to achieve program objectives.

(ii) Assessment of grantee's efforts to undertake cooperative activities between private enterprise, citizens and governmental entities.

(iii) Assessment of grantee's use of plans as a guide for governmental decision-making.

(iv) Assessment of grantee's ability to achieve improvements in the provision of facilities and the delivery of services.

(3) Program coordination performance.

(i) Assessment of grantee's progress in achieving effective coordination on an inter and intra-governmental basis;

(ii) Assessment of State and areawide grantee's use of A–95 process as a coordination mechanism; and

(iii) Assessment of grantee's progress in implementing housing and community development programs on a coordinated basis.

(4) Program management performance and administration of subgrants.

(i) Assessment of grantee's compliance with all program requirements, particularly equal opportunity, citizen involvement, environmental and historic preservation, and handicapped requirements; and

(ii) Assessment of State's administration of substate and voluntary agreement pass-through grants.

(b) *Evaluation review.* Each applicant will receive a written assessment of the results of the HUD evaluation and be provided an opportunity to comment on HUD findings. The applicant may discuss the evaluation at the time it is completed and/or during the annual negotiation conference.

(c) *Evaluation process.* The annual HUD evaluation will be based on all reports, documents, applications and other material provided by an applicant. In addition, the findings of HUD staff obtained as a result of site visits will also be used. Applicants may provide any additional data that they believe will be useful to HUD in making the annual evaluation.

(d) *Administration of substate assistance.* The evaluation of State performance will include an assessment of State administration of substate assistance.

**§ 600.150 [Revoked]**

27. Section 600.150 is revoked.

28. In § 600.160 paragraphs (c) and (d) are revised and paragraph (e) is added to read as follows:

**§ 600.160 OMB Circular A–95 coordination procedures.**

* * * * *

(c) *Clearinghouse Notification.* Applicants must notify the appropriate State and areawide clearinghouses at least 60 days prior to the submittal of the application to HUD. The notification shall contain a copy of the application. It should be sent by the clearinghouses to appropriate agencies in accordance with the requirements of Part I, OMB Circular A–95. In no instance will applications be processed without having fulfilled the A–95 requirements.

(d) Clearinghouse comments. State and regional clearinghouses, in addition to commenting on the basis of the criteria contained in OMB Circular No. A–95, should provide HUD with comments on applications on the basis of their relationship to the National Policy Objectives.

(e) An applicant, which revises its 701 application while it is under review by a clearinghouse or by HUD, shall inform the clearinghouse of the revisions. The clearinghouse may then comment to HUD directly on the revisions with a copy to the applicant.

29. § 600.170 is revised to read as follows:

**§ 600.170 Relationship of the A–95 review procedures to implementation of 701-funded plans and priorities.**

HUD recognizes that the A–95 process is one of the most important means for encouraging intergovernmental cooperation and for considering local plans and priorities as part of HUD's own decision-making process. The effective use of clearinghouse comments is essential to making HUD's programs responsive to local plans, needs and priorities. 701 funded plans are the basis for many of the recommendations made in the A–95 process and A–95 is a key means for implementing 701 funded planning. HUD shall use A–95 clearinghouse comments to the maximum extent possible in its decision-making to ensure maximum implementation of 701 funded planning.

(Section 7(d), Department of HUD Act 42 U.S.C. 3535(d), Section 701 of the Housing Act of 1954, as amended, 40 U.S.C. 461, et seq.)

30. Appendix I is added to Part 600 to read as follows:

## Appendix I

*Comprehensive Planning Assistance*

*Department of Housing and Urban Development*

This list contains illustrations of the types of comprehensive planning and management activities that States, areawide planning organizations and localities may undertake, beginning in FY 1979, which would be clearly supportive of National Policy objectives.

I. *STATES*

A. *To conserve and revitalize communities:*

- reform State income, sales, business and property tax systems and laws, including tax revenue sharing formulas, to provide more cost efficient public services and facilities; assure that distressed population groups are equitably treated; and the needs of distressed communities and populations are adequately addressed.
- identify disparities among communities in State services, facilities and assistance and reprogram State aid to alleviate such disparities.
- conduct "fair share" analyses of State aid and State administered Federal aid to communities.
- develop program(s) for targeting the development, rehabilitation or modernization of State facilities to distressed communities.
- seek State legislative endorsement for priorities and programs designed to carry out community conservation and revitalization objectives.
- increase State role to finance and deliver aid to communities for such local functions as education, public transit and economic development.
- enhance communities borrowing capacity.
- establish a State Development Cabinet, or equivalent mechanism, to enable Governors to coordinate State and local strategy actions.
- establish an urban impact review capacity.

B. *To expand housing choice:*

- develop State and regional policies to guide major public and private decisions on priority areas where growth should occur, including policies and 3 year guidelines for where conventional housing should be

located and HUD and FmHA should provide insured housing.

• develop a three year State housing allocation plan and coordinate the provision of State assisted housing with HUD and FmHA assisted housing.

• establish or increase State funding for State programs of housing loans, grants, and guarantee programs.

• establish a system for constructing State facilities or allocating State expenditures which gives priority based on a community's provision of low and moderate income housing.

• provide new authority for State, regional, or local housing authorities to develop a wide variety of housing and rehabilitation programs and assistance.

• develop model housing rehabilitation standards and/or process to assist in a revitalization program.

• develop model single family and multi-family rehabilitation codes which foster revitalization efforts and encourage their adoption by regional bodies and local governments.

• establish a State Housing Finance Agency.

• reform tax policies to encourage rehabilitation and ensure equity in property taxes for the elderly and low income homeowners.

•reform tax policies to ensure equity in property taxes for renters and reform landlord-tenant, consumer protection and fair housing laws, including the strengthening of administrative and enforcement actions.

• reform model and existing building codes by eliminating unjustified cost increasing requirements, and encouraging the use of new technology in construction materials and methods for conventional and factory-built housing.

• establish laws and regulations for financial institutions that prevent red-lining.

• reform State laws relating to lending and land title practices which tend to increase housing costs.

• establish uniform State building and housing maintenance codes.

• reform local zoning, subdivision, and other land-use ordinances to facilitate the construction of assisted and unassisted, modest cost, multi-family and single family housing, including approaches such as metropolitan or State zoning appeals boards, State-established maximums for house and lot size, garage, density, site development requirements, and fees and charges.

• develop and carry out a comprehensive fair housing strategy (New Horizons Fair Housing Assistance Project).

• establish uniform State standards for accessibility to the handicapped and adopt or revise building and housing codes as necessary.

C. *To expand employment opportunities:*

• establish State financed economic development programs for distressed communities and allocate State resources on a preferential basis to such communities.

• coordinate and target State programs and State administrated Federal programs for employment assistance, such as CETA, to benefit distressed communities.

• establish State programs to encourage the restoration, rehabilitation and more efficient utilization of existing public and private commercial and industrial structures and facilities in distressed and declining communities.

• eliminate or reduce State and local government barriers which restrict private investment or inhibit the creation of employment opportunities in distressed or declining communities.

D. *To promote orderly growth:*

• develop policies which coordinate State resources and State administrated Federal community and housing development resources for transportation access, major utility sites, and air and water quality management actions.

• develop State policies and guidelines for land use and development which will assure that adequate amounts of reasonably priced developable land will be available of the development of modest-cost housing.

• streamline regulatory mechanisms to reduce the cost of procedural delay in the administration of State and local regulations governing housing development and renovation.

• provide assistance to develop data needed to fulfill Community Development Block Grant, Urban Development Action Grant, Housing Opportunity Plan and other HUD program application or regulatory requirements.

• assess extent to which HUD approved land use and housing elements address the Program Objectives and modify the elements, as necessary, to formulate a State strategy for community conservation and orderly growth.

• develop or modify enabling legislation for municipal annexation, county government modernization, and other local government reorganization actions or mergers to encourage community conservation and inhibit sprawl development.

• promote legislative initiatives and actions which address the needs of distressed communities and populations, including handicapped populations.

II. *AREAWIDE PLANNING ORGANIZATIONS:*

(Metropolitan and Nonmetropolitan)

A. *To conserve and revitalize communities:*

• prepare a multi-year strategy to include a regional development guide for major public and private investments coordinated with air quality and transportation control strategies and regional housing strategies.

• implement HUD approved areawide land use and housing elements that are consistent with the Program Objectives.

• prepare regional economic development programs to identify job requirements and preferred major development sites.

• strengthen APO's by moving to establish proportional representation voting systems during the 1979–81 period.

B. *To expand housing choice:*

• develop three year regional housing guide and implementation programs for conventional housing to promote reinvestment and reduce sprawl.

• develop and carry out a comprenhensive fair housing strategy (New Horizons Fair Housing Assistance Project).

• develop a three year assisted housing allocation plan and implementation program, to include guidelines for coordinating the program of State, HUD and FmHA assistance, or establish or refine a housing Opportunity Plan pursuant to 24 CFR 891.

• establish multijurisdictional housing authority which operates program to expand opportunities for low income households outside areas of concentration.

• establish procedures to ensure consistency of areawide housing opportunity plan (HOP) goals with housing assistance plans (HAP) goals of CDBG applicants.

• promote fair and equal housing and facilitate interjurisdictional mobility, by such means as an Areawide Affirmative Marketing Plan, counseling programs, relocation information and assistance, advertising or promotional campaigns, establishing fair housing groups or agencies, adoption of fair housing ordinances and recommendations for new legislation.

• operate programs to expand housing choice directed at assisting local governments to modify their practices which affect housing cost or restrict housing choice particularly in the area of inclusionary and exclusionary land use and zoning ordinances.

• operate programs directed at assisting (builders and financial institutions), and the public sector, to modify their practices which affect housing cost or restrict housing choice.

• propose and encourage programs to eliminate red-lining or other public or private practices which contribute to the problems of distressed areas.

• propose programs to reduce involuntary relocation of low income households in areas undergoing redevelopment and reinvestment.

• use A-95 or other review authorities established by State law or voluntary agreements to implement State and regional housing plans.

• establish standards for local regulations that are consistent with illustrated State activities, so as to facilitate the construction of assisted and unassisted modest-cost housing and monitor compliance with such standards, which may cover house and lot size requirements, allowable densities, site development requirements, fees and charges, and procedures governing changes in zoning.

• develop and implement procedures for monitoring land prices so as to determine that development policies and controls are not unreasonably driving up land prices.

C. *To expand employment opportunities:*

• designate preferential locations for new employment through development of regional public facilities within communities to be conserved.

• identify sites for major new private economic development and otherwise assist private developers to provide new employment to serve areas and persons of greatest need.

• promote improved transportation services to job centers from areas of high employment.

• establish priorities to promote the redevelopment or modernization of commercial and industrial areas in older, highly urbanized areas.

• use A-95 or other authorities to divert new employment opportunities into areas of highest unemployment and poverty.

D. *To promote orderly growth:*

• develop regional public investment programs and schedules for regional public facilities which include timing and staging of

facilities coordinated with orderly urban development in existing communities or neighborhoods, and promoting revitalization of distressed areas.

• delineate priority areas where private sector growth should occur, in order to minimize the cost of additional government services and maximize the use of existing services.

• establish and operate an urban impact review system.

• implement HUD approved land use and housing elements that are consistent with the Program Objective.

• establish or strengthen programs to assist localities to apply for and manage CDBG Small City funds, including analysis of local needs and problems, formulation of housing assistance plans and local community plans, and establishment or improvement of local CDBG program management systems.

III. *LOCALITIES:* (Municipalities under 50,000 population and counties other than urban counties as defined in Title I, HUD Act of 1974, as amended).

A. *To conserve and revitalize communities:*

• develop and carry out a comprehensive plan, or strategy, and action programs to identify, conserve, and rehabilitate neighborhoods and business areas within the locality.

• prepare community development plans, annual programs, and plans for neighborhood strategy areas, and develop applications to qualify for assistance under the CDBG Small Cities program.

• develop programs for land clearance and site aggregation for private or public developments within distressed areas.

• promote infilling of vacant land within the locality.

• survey sites, structures, and districts, and develop programs for historic preservation.

• develop energy conservation measures and facility siting plans.

B. *To expand housing choice:*

• develop plans and develop implementation programs to conserve and rehabilitate the existing housing stock.

• formulate the production of new housing to reduce the isolation of income groups and families and handicapped persons within the locality and to foster interjurisdictional mobility.

• develop and carry out a comprehensive fair housing strategy (New Horizons Fair Housing Assistance Project).

• develop, promulgate and adopt single and multi-family rehabilitation codes which encourage revitalization efforts.

• develop programs to promote assisted housing, such as land write-downs, establishment of a housing authority or joining a multijurisdiction housing authority, and identification and improvement of sites for assisted housing.

• develop outreach programs and informational services to promote interjurisdictional mobility and expand housing opportunities for non-residents.

• update, modernize, and adopt land development and structural codes and ordinances, to remove exclusionary barriers and create inclusionary opportunities consistent with 701 Program Objectives.

• streamline local administrative procedures pertaining to the regulation of land development and building construction so as to reduce the costs of delay and increase the degree of predictability of the governmental review and approval process.

C. *To promote employment opportunity:*

• develop and carry out plans and programs to attract or retain business and industry, to retain or upgrade the local labor force, or to create new job opportunities for the unemployed, underemployed or handicapped in the locality.

• revise local tax and business regulation structures to remove barriers and encourage new economic development consistent with Program Objectives.

• prepare applications and development plans necessary to qualify for assistance under the Urban Development Action Grant program.

D. *To promote orderly growth:*

• develop and carry out a comprehensive plan (including the statutorily prescribed land use and housing elements) as a guide for public and private development, redevelopment, or resource conservation, as appropriate within the locality, to include priority areas for Federal community development and housing assistance (insured and subsidized). Such comprehensive plan to consider the needs of all population groups, the availability of land, the public sector costs and benefits of additional growth, and the incidence of their impact, on the population, energy consumption, and the environment.

• assess and revise functional plans and investment programs, such as for transportation, parks and recreation, and social services to alleviate any disparities and to provide services to meet the special needs of distressed areas and population groups within the locality.

• plan local facilities consistent with a regional or state public investment programs.

• carry out programs to detail and implement a regional development guide at the local level.

• conduct flood control studies and develop programs for flood plain management.

(Section 7(d), Department of HUD Act 42 U.S.C. 3535(d), Section 701 of the Housing Act of 1954, as amended, 40 U.S.C. 461, et seq.)

Issued at Washington, D.C., September 12, 1979.

Robert C. Embry, Jr.,

*Assistant Secretary for Community Planning and Development.*

[FR Doc. 79-29031 Filed 9-18-79; 8:45 am]

BILLING CODE 4210-01-M

Federal Register

Wednesday
September 19, 1979

Part V

# Department of Interior

Office of Surface Mining

## Guidelines for Contacts With Interior Department Employees and Officials During Consideration of State Permanent Regulatory Programs

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

### Publication of Guidelines for Contacts With Employees and Officials During Consideration of State Permanent Regulatory Programs

**AGENCY:** Office of Surface Mining Reclamation and Enforcement ("OSM"), U.S. Department of the Interior.

**ACTION:** Publication of Guidelines for contacts with the employees and officials of the Department of the Interior during consideration of State permanent regulatory programs.

**SUMMARY:** OSM is adopting guidelines which set forth the procedures to be followed by employees and officials of the Department of the Interior when they have any conversations, meetings or other contacts relating to a proposed State regulatory program which has been submitted for approval by the Secretary of Interior in compliance with 30 CFR Parts 731 and 732.

**EFFECTIVE DATE:** The Guidelines are effective immediately.

**FOR FURTHER INFORMATION CONTACT:** Carl C. Close, Assistant Director, State & Federal Programs, Office of Surface Mining and Reclamation, Room 224, Interior South Building, Washington, D.C. 20240, (202–343–4225).

**SUPPLEMENTARY INFORMATION:** Section 503 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1253, provides that each State wishing to assume exclusive jurisdiction over the regulation of surface coal mining shall submit to the Secretary of the Department of the Interior a proposed State regulatory program. This program must demonstrate that such State has the capability of carrying out the provisions of SMCRA and meeting its purposes. The Secretary must thereafter approve or disapprove the State program. The procedures and criteria for the approval or disapproval of State program submissions are set out at 30 CFR Parts 731–732 (44 FR 15324–15328, March 13, 1979). After the submission of a State program and prior to its approval or disapproval, interested parties will have an opportunity to examine and comment upon the proposed State regulatory program.

Four State programs have already been submitted to OSM. These States are: Texas, Mississippi, Montana and Wyoming.

OSM believes that SMCRA's purpose of providing for public participation in review of State programs makes it necessary and appropriate to issue guidelines governing contacts between the Department of the Interior and both State officials and members of the public, once State programs have been submitted to OSM for review.

On March 13, 1979, OSM declared its intention to issue these Guidelines (44 FR 14958). The United States District Court for the District of Columbia discussed the fact that these Guidelines were forthcoming when it stated recently that some degree of formality may be appropriate during the postsubmission period. *In Re: Permanent Surface Mining Regulation Litigation,* No. 79–1144 (D.D.C., August 21, 1979).

Public comments were solicited and received concerning the procedures to be followed during the post-submission period in the context of the development of OSM's permanent program regulations (44 FR 14958). Those comments have been fully considered in drafting the Guidelines.

The Guidelines, which will be followed by all employees and officials of the Department of the Interior, are being published today in order to assure immediate and widespread circulation. OSM believes that open communication between State and Federal officials is important to assure public participation in review of State programs which fully implement all the goals of SMCRA. By publication of the Guidelines, OSM hopes to encourage full cooperation by all affected persons with the procedures being implemented.

The Department of the Interior has determined that these Guidelines do not constitute a significant rule and do not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The Department of Interior has also determined that the adoption of these Guidelines does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

Dated: September 13, 1979.

Joan M. Davenport,

*Assistant Secretary Energy and Minerals.*

The following Guidelines are hereby adopted:

### Guidelines for Postsubmission Contacts Between the Department of the Interior, the States and the Public

*Applicability*

These guidelines apply to all contacts between (1) employees and officials of the Department of the Interior and the government of a State for which a program has been formally submitted for consideration by the Secretary under the Surface Mining Control and Reclamation Act and (2) between employees and officials of the Department and the public. These guidelines will apply from the time of submission to the time of final approval or formal disapproval of the State program, and apply to those contacts (meetings, telephone calls, etc.) at which the State program or its approval or disapproval is discussed.

*Background*

The Department has been considering appropriate guidelines for its contacts with State representatives and the public during formal consideration of State programs. Public comments on appropriate guidelines were elicited during development of OSM's permanent regulatory program rules, which were published March 13, 1979. At that time OSM stated it would issue these guidelines at a later date. (See 44 FR 14958, March 13, 1979). In addition to considering the public comments received during the permanent regulatory program rulemaking, OSM has taken into account, in drafting the guidelines, the purposes of the Act and recent judicial interpretations of applicable requirements, including the August 21, 1979, opinion of the District Court for the District of Columbia in Re: *Permanent Surface Mining Regulation Litigation,* Civil Action No. 79–1144.

The Surface Mining Control and Reclamation Act of 1977 establishes a special relationship between the States and the Department of the Interior in the regulation of surface coal mining operations. Development of mutually acceptable State laws, regulations and other components of a State regulatory program is a joint Federal-State process. Accordingly, there is an exceptional need to preserve the ability of the Department and the States to work together through all stages of program development, review and approval. The Department wishes to assit the States, in every appropriate manner, to assume jurisdiction for implementation of the permanent regulatory program.

At the same time, the Department believes that public participation in the consideration of a State program will improve the quality of the final program and will greatly assist the Secretary in making his decision to approve or disapprove a program. The public has a clear right to participate in the development, review and approval process. This includes the right to be informed and the opportunity for meaningful comment and presentation of arguments. The Department has

carefully considered how to achieve guidelines which will protect both the special relationship with the States and the rights of the public. The following principles and guidelines shall be followed by employees and officials of the Department when dealing with States and the public following formal submission of a proposed State regulatory program.

*Principles*

1. The State program review and approval process will be on the record. An open record of items discussed and information exchanged at all meetings concerning the consideration of State program submissions, along with a record of all comments and testimony received, will be maintained. Anyone interested in the State program review process will have the opportunity to review the substance of contacts between employees or officials of the Department and other persons concerning the State program prior to a final decision. If new information is received from a State after the close of the original comment period, an additional comment period will be provided prior to the decision by the Secretary if necessary to meet the Department's obligation to give the public a chance to review information that will affect whether a program can be approved, and to ensure an adequate record in the event of judicial review. Comments received during this additional comment period would be evaluated and may be used by the Secretary in reaching a final decision on the State program.

2. Preserving the ability to communicate formally or informally with a State until the Secretary decides whether to approve or disapprove a submission is necessary to carry out the intent of Congress to establish a special role for the States in the regulation of surface coal mining operations. The Act establishes the States as the focal points of surface mine reclamation and control programs. The development and review of State programs requires a partnership effort between the Department and the States. Communication, information exchange and cooperation are necessary to assure that State programs are responsive to the requirements of the Act and regulations. OSM and the Department intend to take necessary and appropriate steps to carry out the purposes of the Act in this regard.

3. The process of Federal-State information exchange must be as open to the general public as possible. Meetings between the Department and the States generally will be open to the public, to the fullest extent consistent with the other principles underlying these guidelines. The Department must reserve the ability to hold executive sessions when needed. The summary records of all meetings will be made available to the public.

4. Uniform, nationwide guidelines for contacts between the Department of the Interior and either the States or the public are necessary to assure consistency and to implement the three principles above.

*Guidelines*

1. Upon request the Department will meet with any public representatives—citizens, environmental groups, industry—through the end of the public comment period. Notices of scheduled meetings shall be posted in a public place. The meetings will be open.

2. The Department will meet with State representatives or have telephone conversations with them, upon the initiative of either party, up to the point of the Secretary's decision to approve or disapprove a State program. Through the end of public comment period, the meetings will be open unless an OSM or Departmental official decides to hold an executive session. Advance notice of scheduled meetings will be posted in a public place. Both before and after the end of the public comment period, some meetings may be in executive session. Notice of executive sessions will be posted.

3. The Department shall keep a summary record of all discussions and meetings on a State's program submission, whether in person or by telephone. This record shall include a summary of the discussions and a list of all written information OSM receives. All such records along with all written communications relating to the State program submission, shall be made available to the public.

4. In those instances where the Department has conducted meetings or discussions with a State after the close of the public comment period, the Department will include a summary of the meeting and, if necessary to assure an effective opportunity for public participation, provide an opportunity for the public to review the record of such meetings and discussions and to comment on them before a decision is made to approve or disapprove the State program.

[FR Doc. 79-29027 Filed 9-18-79; 8:45 am]
BILLING CODE 4310-05-M

# Reader Aids

Federal Register

Vol. 44, No. 183

Wednesday, September 19, 1979

## INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

**Federal Register, Daily Issue:**

| | |
|---|---|
| 202-783-3238 | Subscription orders (GPO) |
| 202-275-3054 | Subscription problems (GPO) |
| | "Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue): |
| 202-523-5022 | Washington, D.C. |
| 312-663-0884 | Chicago, Ill. |
| 213-688-6694 | Los Angeles, Calif. |
| 202-523-3187 | Scheduling of documents for publication |
| 523-5240 | Photo copies of documents appearing in the Federal Register |
| 523-5237 | Corrections |
| 523-5215 | Public Inspection Desk |
| 523-5227 | Finding Aids |
| 523-5235 | Public Briefings: "How To Use the Federal Register." |

**Code of Federal Regulations (CFR):**

| | |
|---|---|
| 523-3419 | |
| 523-3517 | |
| 523-5227 | Finding Aids |

**Presidential Documents:**

| | |
|---|---|
| 523-5233 | Executive Orders and Proclamations |
| 523-5235 | Public Papers of the Presidents, and Weekly Compilation of Presidential Documents |

**Public Laws:**

| | |
|---|---|
| 523-5266 -5282 | Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index |
| 275-3030 | Slip Law Orders (GPO) |

**Other Publications and Services:**

| | |
|---|---|
| 523-5239 | TTY for the Deaf |
| 523-5230 | U.S. Government Manual |
| 523-3408 | Automation |
| 523-4534 | Special Projects |
| 523-3517 | Privacy Act Compilation |

## FEDERAL REGISTER PAGES AND DATES, SEPTEMBER



## CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

**3 CFR**

Executive Orders:
6276 (Revoked in part by PLO 5682)....52685
12038 (Amended by EO 12156)....53073
12076 (Revoked by EO 12154)....51965
12148 (Amended by EO 12155)....53071
12148 (Amended by EO 12156)....53073
12154....51965
12155....53071
12156....53073
12157....54035

Proclamations:
4679....52159, 52669
4680....53069
4681....53075
4682....53149
4683....53151
4684....53711
4685....54031
4686....54033

Administrative Orders:

Presidential Determinations:
No. 79-14 of August 24, 1979....53485
No. 79-14 of August 24, 1979 (correction)....53713
September 12, 1979....53153
No. 79-15 of September 13, 1979....53713

**5 CFR**

540....52161

Proposed Rules:
334....54067
337....52217
410....52217
432....52218, 54067

**7 CFR**

2....51967
26....52838
28....52168
235....53487
245....54037
272....54038
370....53490
411....54291
651....52671
908....51967, 53155
910....52168, 53491
919....53717
927....54040
931....54040
948....52674
981....53155
1011....53717
1040....53720
1071....52841
1073....52841, 53721
1097....52841, 53721
1102....52841, 53721
1104....52841, 53721
1106....52841, 53721
1108....52841, 53721
1120....52841, 53721
1126....52841, 53721
1132....52841, 53721
1138....52841, 53721

Proposed Rules:
Ch. IX....52218
210....54076
220....54076
301....53525
425....51807
611....53176
624....54073
904....52219
929....54302
948....52690
1030....51991
1049....54302
1065....51813
1135....54307
1139....53525
1280....52226, 52243
1421....53525

**8 CFR**

103....52169

**9 CFR**

92....53491
318....54041

Proposed Rules:
318....53526
381....53526

**10 CFR**

211....52170, 54041
212....52172
430....52632
500....53723
501....53723
502....53723
503....53723
504....53723
505....53723
506....53723
507....53723

Proposed Rules:
30....54307
40....54307
50....54308
70....54307, 54308
150....54307
170....54307

211.....54068
376.....52842
475.....52140
486.....52642

11 CFR

Proposed Rules:
Ch. I.....51962
4.....53924
5.....53924

12 CFR

7.....51795
226.....54291
272.....52823
346.....52675
505c.....52823
526.....52824
545.....52824
615.....53077
701.....53077

Proposed Rules:
Ch. I.....51813
18.....54310
204.....54311
217.....54311
301.....52691
305.....52691
306.....52691
307.....52692
325.....52691
327.....52692
330.....52691
614.....53534

13 CFR

120.....51549

Proposed Rules:
Ch. V.....54166
123.....51610
124.....53087

14 CFR

21.....53723
23.....53723
36.....53723
39.....51549-51551, 51968, 52676, 53732-53735
71.....51552, 51553, 51968, 52677, 52678, 53156, 53157 53735-53738
73.....51968, 53738, 53739
75.....53738
91.....53738
95.....51969
97.....52678
121.....53723
135.....53723
139.....53723
223.....52173
298.....51797
325.....52661
385.....52174, 52666
398.....52646
1251.....52680

Proposed Rules:
Ch. I.....51612, 52076, 52694
1.....53416
39.....53754, 53755
71.....51610, 51991, 52694, 53176, 53177, 53416, 53757
75.....51611
91.....53416
105.....53416
207.....52253
208.....52253
212.....52253
214.....52253
221.....52847
223.....52850
233.....52246, 53535
302.....52246, 53535
312.....54068
399.....52847

15 CFR

30.....52174

Proposed Rules:
Ch. I.....54166
Ch. II.....54166
Ch. III.....54166
Ch. IV.....54166
Ch. VIII.....54166
Ch. IX.....54166
Ch. XII.....54166
2006.....53535

16 CFR

1.....54042
2.....54042
3.....54042
13.....52175, 53077-53079, 53158
1700.....52176

Proposed Rules:
Ch. II.....53676
1.....53088
3.....53088
13.....51817
419.....51826
440.....51992
441.....53538

17 CFR

230.....52816
239.....54014
241.....53159, 53426
270.....54014
271.....53426
274.....54014

Proposed Rules:
Ch. II.....52810
230.....54058
231.....52820
239.....54258
240.....53430, 54068
241.....52820
249.....53430

18 CFR

Ch. I.....53538
Sub. Ch. H.....52179
Sub. Ch. I.....52179
2.....51554, 52178, 53759
157.....52179
270.....53492, 53493
271.....51554, 52178, 53505 53759
273.....53493
274.....53505
281.....52179
284.....52179, 53493, 54294

Proposed Rules:
2.....53178
3d.....53178
35.....53538
131.....53178
156.....53178
157.....53178
271.....52253, 52702
274.....52253, 52702
275.....52702
281.....51993
282.....53178
284.....51612

19 CFR

10.....51567

Proposed Rules:
101.....54311
177.....53759

21 CFR

5.....54042
73.....52189
177.....52189
184.....52825
312.....54042
314.....54042
510.....52190
520.....52190
522.....52190
882.....51726-51778
1040.....52191

Proposed Rules:
Ch. II.....54312
118.....52257
514.....53539
864.....52950-53063

22 CFR

Proposed Rules:
506.....53089

23 CFR

630.....53739

24 CFR

236.....51800
570.....52685, 54294
888.....53505

Proposed Rules:
51.....52695
207.....53178
290.....51999
510.....51999, 52000
600.....54432
3280.....52696

25 CFR

Proposed Rules:
700.....53760

26 CFR

1.....52196
53.....52196

Proposed Rules:
1.....53539, 54315, 54317
11.....54317
20.....52696, 52698

27 CFR

Proposed Rules:
170.....53178
231.....53178
240.....53178

28 CFR

0.....53080, 54045, 54046
16.....54046

Proposed Rules:
42.....53179

29 CFR

1601.....53506

Proposed Rules:
1601.....53540
1605.....53706

30 CFR

Ch. VII.....53507 53740
40.....52826
41.....52826
43.....52826
44.....52826
46.....52826
48.....52826
50.....52827
55.....53702
56.....53702
57.....53702
70.....52826
75.....52826
77.....52826
100.....52826
250.....53672

Proposed Rules:
Ch. VII.....52098
45.....53540
110.....52258
705.....52098
872.....52698

31 CFR

202.....53066
211.....51567

Proposed Rules:
1.....52850
103.....52258
240.....53090

32 CFR

100.....51568
101.....53159
205.....51571
1201.....52198
1203.....52198
1214.....52198
1216.....52198
2400.....51577
2700.....51990

32A CFR

Proposed Rules:
Ch. VI.....54166

33 CFR

1.....51584
109.....51584
165.....51586, 53744
209.....51586, 54047

Proposed Rules:
110.....51614
164.....51620, 51622
207.....53179

36 CFR

219.....53928, 54294
922.....51587
1152.....52199

Proposed Rules:
7.....53541
1213.....51829

37 CFR

301.....53161

Proposed Rules:
Ch. I.....54166
201.....52260

38 CFR

Proposed Rules:
3 ..... 51829

39 CFR

10 ..... 53080
111 ..... 52828
310 ..... 52832
320 ..... 52832
Proposed Rules:
775 ..... 52262
3001 ..... 53545

40 CFR

52 ..... 51977, 53161, 54047
60 ..... 52792, 53746
62 ..... 54052, 54053
65 ..... 51979, 52207, 53748, 54054–54056
80 ..... 53144
81 ..... 53081, 54057, 54294
86 ..... 53408
117 ..... 53749
125 ..... 52207
180 ..... 51593
204 ..... 54295
205 ..... 54295
257 ..... 53438
401 ..... 52685
413 ..... 52590
761 ..... 54296
762 ..... 54297, 54298
Proposed Rules:
50 ..... 53183
51 ..... 51924, 54069
52 ..... 51830, 51924, 52000, 52001, 52263, 52271, 53761, 54069, 54070
60 ..... 54071
65 ..... 51830, 54322
81 ..... 52263, 52850, 53546, 53547
146 ..... 52851
180 ..... 53183
230 ..... 54222
250 ..... 54323
257 ..... 53465
774 ..... 54284

41 CFR

Ch. 101 ..... 53161
1–4 ..... 52208
101–49 ..... 53749
105–65 ..... 51593
Proposed Rules:
60–4 ..... 52283

43 CFR

17 ..... 54299
Public Land Orders:
5680 ..... 52686, 54299
5681 ..... 52835
5682 ..... 52685
5683 ..... 53084
Proposed Rules:
429 ..... 52699
2600 ..... 54254

44 CFR

64 ..... 51594
65 ..... 52835, 53163
67 ..... 51596, 51598

45 CFR

177 ..... 53866
1061 ..... 51780, 52689
Proposed Rules:
Ch. XX ..... 54166

46 CFR

162 ..... 53352
293 ..... 52837
Proposed Rules:
Ch. II ..... 54166
Ch. IV ..... 53547
160 ..... 53184
163 ..... 53184
254 ..... 52002
401 ..... 52010
402 ..... 52010

47 CFR

73 ..... 53166, 53509–53512
83 ..... 54057
Proposed Rules:
31 ..... 53548
33 ..... 53548
42 ..... 53548
43 ..... 53548
73 ..... 53185, 53549–53552
90 ..... 53553

49 CFR

571 ..... 51603, 53166
1033 ..... 51607, 53753, 54058
1043 ..... 53513
1045A ..... 53513
1056 ..... 53167
Proposed Rules:
Ch. X ..... 51830
192 ..... 53185
195 ..... 53185, 53187
213 ..... 52104
571 ..... 51623
1063 ..... 53092
1104A ..... 53190
1125 ..... 54324

50 CFR

1 ..... 54058
2 ..... 54058
13 ..... 54002
17 ..... 51980, 54002, 54059
32 ..... 51982, 51984, 51985, 52209–52213, 52689, 53084, 53167–53173, 54062
33 ..... 53173, 54299, 54300
280 ..... 51608
285 ..... 51801
530 ..... 52837
611 ..... 51801, 52214, 54064, 54065, 54300
651 ..... 53174
654 ..... 53519
672 ..... 51801, 52214, 54064, 54065
674 ..... 51988, 53085
Proposed Rules:
Ch. II ..... 54166
Ch. VI ..... 54166
17 ..... 53422, 54011
32 ..... 52011
33 ..... 52011
611 ..... 52284, 53094, 53191, 54072
650 ..... 52852
651 ..... 53259
656 ..... 53191
672 ..... 52284
810 ..... 52289

## AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

| Monday | Tuesday | Wednesday | Thursday | Friday |
|---|---|---|---|---|
| DOT/SECRETARY* | USDA/ASCS | | DOT/SECRETARY* | USDA/ASCS |
| DOT/COAST GUARD | USDA/APHIS | | DOT/COAST GUARD | USDA/APHIS |
| DOT/FAA | USDA/FNS | | DOT/FAA | USDA/FNS |
| DOT/FHWA | USDA/FSQS | | DOT/FHWA | USDA/FSQS |
| DOT/FRA | USDA/REA | | DOT/FRA | USDA/REA |
| DOT/NHTSA | MSPB/OPM | | DOT/NHTSA | MSPB/OPM |
| DOT/RSPA | LABOR | | DOT/RSPA | LABOR |
| DOT/SLSDC | HEW/FDA | | DOT/SLSDC | HEW/FDA |
| DOT/UMTA | | | DOT/UMTA | |
| CSA | | | CSA | |

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

## REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

### Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of Rules Going Into Effect Today.

TREASURY DEPARTMENT

Customs Service—

48671 8-20-79 / Change in field organization

### Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Stabilization and Conservation Service—

44167 7-27-79 / Compliance with National Environmental Policy Act; comments by 9-25-79

Federal Crop Insurance Corporation—

44505 7-30-79 / Proposed Flax Crop Insurance; comments by 9-28-79

44511 7-30-79 / Proposed Rice Crop Insurance; comments by 9-28-79

CIVIL AERONAUTICS BOARD

32401 6-6-79 / Nondiscrimination on the basis of handicap; reply comments by 9-24-79

44106 7-26-79 / Passenger route authority filed with the board and by commuter carriers serving an eligible point; comments by 9-24-79

[Corrected at 44 FR 46880, Aug. 9, 1979]

COMMERCE DEPARTMENT

Maritime Administration—

48287 8-17-79 / Requirements for ODS applications; comments period extended from 8-24-79 to 9-24-79

[Originally published at 44 FR 37003, June 25, 1979]

National Oceanic and Atmospheric Administration—

50879 8-30-79 / Squid Fisheries of the Northwestern Atlantic; comments by 9-26-79

Science and Technology Office—

43744 7-26-79 / Voluntary product standards; comments by 9-24-79

DEFENSE DEPARTMENT

Office of Secretary—

50616 8-29-79 / Nomination of Chaplains for the Armed Forces; comments by 9-28-79

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

51963 9-6-79 / Determination of alternative fuels for essential agricultural users; comments by 9-28-79

51612 9-4-79 / Natural gas transported by interstate pipelines for delivery to other interstate pipelines; comments by 9-24-79

ENVIRONMENTAL PROTECTION AGENCY

49703 8-24-79 / Attainment status designations, Georgia; comments by 9-24-79

50619 8-29-79 / Air Pollution; Illinois State implementation plan; comments by 9-28-79

44556 7-30-79 / Air pollution; state implementation plans; New York; comments by 9-28-79

41837 7-18-79 / Control of air pollution from aircraft and aircraft engines; Exemptions from aircraft emission standards; comments by 9-24-79

49702 8-24-79 / Georgia air quality implementation plan; comments by 9-24-79

43298 7-24-79 / Proposed revision of the West Virginia State implementation plan; comments by 9-24-79

50783 8-29-79 / Removal of calcium oxide and calcium hydroxide from list of hazardous substances; comments by 9-28-79

50066 8-27-79 / Revision of Maryland state implementation plan; comments by 9-26-79

FEDERAL COMMUNICATIONS COMMISSION

42735 7-20-79 / Camden, Me., changes in FM table of assignments; reply comments by 9-27-79

50377 8-28-79 / Domestic public message services by entities other than Western Union Telegraph Co., reply comments by 9-24-79

[Originally published at 44 FR 44184, July 27, 1979]

53185 9-13-79 / FM broadcast station in Mountain Home, Ark., reply comments extended to 9-28-79

[Originally published at 44 FR 37518, June 26, 1979]

46493 8-8-79 / Inquiry into high seas public coast station operations; services and industry; reply comments by 9-25-79

42731 7-20-79 / Kalamazoo, Mich., changes in television table of assignments; reply comments by 9-27-79

42732 7-20-79 / Santa Barbara, Calif.; changes in FM table of assignments; reply comments by 9-27-79

45653 8-3-79 / West Union, Ohio; changes in FM table of assignments; comments by 9-25-79

FEDERAL DEPOSIT INSURANCE CORPORATION

43260 7-24-79 / Recordkeeping and confirmation requirements for securities transactions; comments by 9-24-79

[Corrected at 44 FR 45375, Aug. 2, 1979]

FEDERAL MEDIATION AND CONCILIATION SERVICE

43292 7-24-79 / FIFRA arbitration appointments; comments by 9-24-79

FEDERAL RESERVE SYSTEM

43256 7-24-79 / Recordkeeping and confirmation requirements for certain securities transactions effected by State member banks; comments by 9-24-79

FEDERAL TRADE COMMISSION

43489 7-25-79 / Availability of staff report on advertising and labeling of protein supplements; comments by 9-24-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

44180 7-27-79 / Certification of sterile neomycin sulfate for parenteral use; revocation of provisions; comments by 9-25-79

44178 7-27-79 / Neomycin sulfate for prescription compounding; revocation of certification; comments by 9-25-79

Social Security Administration—

43265 7-24-79 / Supplemental security income (SSI) program; Valuing resources on the basis of equity and increasing maximum values on certain excluded resources; comments by 9-24-79

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Community Planning and Development—

44780 7-30-79 / Community Development Block Grants—Reallocation; comments by 9-28-79

Federal Disaster Assistance Administration—

47105 8-10-79 / Community disaster loans; comments by 9-24-79

INTERIOR DEPARTMENT

Fish and Wildlife Service—

37754 6-28-79 / Becharof and Yukon Flats National Wildlife Monuments, Alaska; general management regulations; comments by 9-26-79

43705 7-25-79 / Notification of non-protection of seven endangered species; comments by 9-28-79

43709 7-25-79 / Review of status of *Saldula usingeri* (Wilbur Springs shore bug); submit information by 9-28-79

49707 8-24-79 / White River National Wildlife Refuge, Ark.; hunting; comments by 9-24-79

Land Management Bureau—

44702 7-30-79 / Range Management and Technical Services; Grazing Administration and Trespass; comments by 9-28-79

National Park Service—

37732 6-28-79 / Alaska National Monuments; general management regulations; comments by 9-26-79

INTERSTATE COMMERCE COMMISSION

49706 8-24-79 / Household goods transportation; decision on storage in transit charges; comments by 9-24-79

LABOR DEPARTMENT

Employment and Training Administration—

49697 8-24-79 / Alien temporary agricultural and logging employment in U.S., comments by 9-24-79

NUCLEAR REGULATORY COMMISSION

50353 8-28-79 / Privacy Act regulations; proposed exemptions; comments by 9-27-79

PENSION BENEFIT GUARANTY CORPORATION

43404 7-24-79 / Revised method of filing notice of intent to terminate; comments by 9-24-79

POSTAL SERVICE

52262 9-7-79 / National Environmental Policy Act (NEPA) implementing procedures; comments by 9-24-79

SECURITIES AND EXCHANGE COMMISSION

38792 7-2-79 / Electric and gas utility companies, proposed guidelines for disclosure; comments by 9-24-79

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

43740 7-26-79 / Petitions received and dispositions of petitions denied; comments by 9-24-79

38563 7-2-79 / Proposed special purpose pilot, flight engineer, and flight navigator certificates; comments by 9-28-79

43740 7-26-79 / Rescission of Hawaiian reporting points and airway segments; comments by 9-24-79

Federal Railroad Administration—

34982 6-18-79 / Display of locomotive alerting lights at public grade corssings; comments by 9-28-79

TREASURY DEPARTMENT

Comptroller of the Currency—

43252 7-24-79 / Recordkeeping and confirmation requirements for certain transactions effected by national banks; comments by 9-24-79

44172 7-27-79 / Single-premium annuity contracts; participation by national banks in sale; comments by 9-25-79

Internal Revenue Service—

43290 7-24-79 / Private foundation, definition; comments by 9-24-79

44553 7-30-79 / Transfer of appreciated property to political organizations; comments by 9-28-79

## Next Week's Meetings

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service—

52296 9-7-79 / General Conference Committee of the National Poultry Improvement Plan, Washington, D.C. (open), 9-28-79

ALCOHOL FUELS, NATIONAL COMMISSION

53113 9-12-79 / Meeting, Jonesboro, Ark. (open), 9-28-79

ARTS AND HUMANITIES, NATIONAL FOUNDATION

52057 9-6-79 / Humanities Panel, Washington, D.C. (closed), 9-24-79

49525 8-23-79 / Humanities Panel Advisory Committee, Wash., D.C. (closed), 9-24, 9-28 and 9-29-79

52057 9-6-79 / Humanities Panel, Washington, D.C. (closed), 9-27 and 9-28-79

48829 8-20-79 / Humanities Panel, Washington, D.C. (closed), 9-27 and 9-28-79

[Originally published at 44 FR 45492, Aug. 2, 1979]

52898 9-11-79 / Music Advisory Panel (Jazz Section), Washington, D.C. (closed), 9-24 and 9-25-79

Office of the Secretary—

37692 6-28-79 / Model Adoption Legislation and Procedures Advisory Panel, Washington, D.C. (open), 9-26 thru 9-28-79

49512 8-23-79 / President's Committee on Mental Retardation, Alexandria, Va. (open), 9-26 and 9-27-79

Social Security Administration—

49311 8-22-79 / Social Security Advisory Council, Washington, D.C. (open), 9-28 and 9-29-79

HISTORIC PRESERVATION ADVISORY COUNCIL

46498 8-8-79 / Proposed demolition of historic and cultural properties at the U.S. Naval Academy in Annapolis, Maryland, Annapolis, Maryland, 9-28-79

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of the Secretary—

51868 9-5-79 / HUD-owned multifamily property disposition, Washington, D.C. (open), 9-24-79

INTERIOR DEPARTMENT

Land Management Bureau—

48378 8-17-79 / Boise District Idaho Grazing Advisory Board, Boise, Idaho (open), 9-26 and 9-27-79

49311 8-22-79 / Riverside District Grazing Advisory Board, Barstow, California (open), 9-26-79

47168 8-10-79 / Socorro District Grazing Advisory Board, Socorro, NM (open), 9-24-79

National Park Service—

53317 9-13-79 / Upper Delaware Citizens Advisory Council, Tusten, N.Y. (open), 9-28-79

47411 3-18-79 / Workshop on Santa Monica Mountains National Recreation Area, North Hollywood, Calif. (open), 9-24-79

47411 3-18-79 / Workshop on Sana Monica Mountains National Recreation Area, Los Angeles, Calif. (open), 9-26-79

47411 3-18-79 / Workshop on Santa Monica Mountains National Recreation Area, Ventura, Calif. (open), 9-27-79

Office of the Secretary—

48827 8-20-79 / Domestic policy review of nonfuel minerals, Washington, D.C. (open), 9-26-79

52347 9-7-79 / Oil Shale Environmental Advisory Panel, Vernal, Utah (open), 9-25 and 9-26-79

Reclamation Bureau—

49312 8-22-79 / Draft supplement to the final environmental statement for the San Luis unit, Central Valley Project, California, Fresno, California, 9-26-79

49312 8-22-79 / Draft supplement to the final environmental statement for the San Luis unit, Central Valley Project, California, Concord, California (open), 9-27-79

INTERNATIONAL COMMUNICATION AGENCY

53111 9-12-79 / International Communication, Cultural and Educational Affairs, U.S. Advisory Commission, Washington, D.C. (open), 9-27 and 9-28-79

INTERNATIONAL TRADE COMMISSION

49315 8-22-79 / Certain apparatus for the continuous production of copper rod, Washington, D.C. (open), 9-25-79

JUSTICE DEPARTMENT

Law Enforcement Assistance Administration—

52758 9-10-79 / National Institute of Law Enforcement and Criminal Justice, Chantilly, Va. (open), 9-27 and 9-28-79

LABOR DEPARTMENT

Occupational Safety and Health Administration—

48275 8-17-79 / Guarding of low-pitched-roof perimeters during roof work; meeting, Washington, D.C. (open), 9-28-79

Office of the Secretary—

52385 9-7-79 / Advisory Committee on Construction Safety and Health and Subgroup on Health Standards, Washington, D.C. (open), 9-24, 9-25, and 9-26-79

52384 9-7-79 / Secretary's Committee on Veterans' Affairs, Washington, D.C. (open), 9-24-79

MERIT SYSTEMS PROTECTION BOARD

51891 9-5-79 / Meeting regarding *Wells* v. *Harris*, Washington, D.C. (open), 9-27-79

NATIONAL SCIENCE FOUNDATION

52388 9-7-79 / Advisory Committee for Astronomy, Arecibo, Puerto Rico (partially closed), 9-26 thru 9-28-79

52388 9-7-79 / Advisory Committee for Earth Sciences: Geology and Geochemistry Subcommittees, Washington, D.C. (closed), 9-27-79 and 9-28-79

52388 9-7-79 / Advisory Committee for Science Education, Washington, D.C. (open), 9-26-79

52387 9-7-79 / Advisory Committee for Science Education, Washington, D.C. (open), 9-27 and 9-28-79

52387 9-7-79 / Advisory Committee for Earth Sciences, Washington, D.C. (closed), 9-24-79

52387 9-7-79 / Advisory Committee for Ocean Sciences, Washington, D.C. (closed), 9-25-79

52386 9-7-79 / Advisory Committee for Ocean Sciences (closed), 9-26 and 9-27-79

52387 9-7-79 / Subcommittee for Ocean Sciences, Washington, D.C. (closed), 9-27 and 9-28-79

NUCLEAR REGULATORY COMMISSION

53116 9-12-79 / Lessons Learned Task Force:
Atlanta, Ga. (open), 9-28-79
Las Vegas, Nev. (open), 9-26-79

52911 9-11-79 / Study of nuclear power plant construction during adjudication, Bethesda, Md. (open), 9-28-79

PENSION POLICY, PRESIDENT'S COMMISSION

42831 7-20-79 / Meeting, Washington, D.C. (open), 9-28-79

53596 9-14-79 / Meeting, Washington, D.C. (open), 9-28-79

42831 7-20-79 / Study Group on Ability of Present U.S. Pension Systems to meet needs of Retired, Disabled, and Survivors, Washington, D.C. (open) 9-29-79

STATE DEPARTMENT

Agency for International Development—

51691 9-4-79 / Board for International Food and Agricultural Development, Washington, D.C. (open), 9-27-79

Office of the Secretary—

49321 8-22-79 / International Investment, Technology, and Development Advisory Committee, Washington, D.C. (open), 9-26-79

51876 9-5-79 / International Telegraph and Telephone Consultative Committee, National Committee of U.S. Organization, Washington, D.C. (open), 9-24-79

53335 9-13-79 / Private International Law Committee, Study Group on International Child Abduction by One Parent, San Francisco, Calif. (open), 9-29-79

SMALL BUSINESS ADMINISTRATION

52065 9-6-79 / Region II Advisory Council, New York, N.Y. (open), 9-25-79

47194 8-10-79 / Region IV Advisory Council, Memphis, Tenn. (open), 9-26-79

50421 8-28-79 / Region IV Advisory Council, Meridian, Miss. (open), 9-28-79

53117 9-12-79 / Region IV Advisory Council, Orlando, Fla. (open), 9-28-79

53117 9-12-79 / Region IX Advisory Council, Honolulu, Hawaii (open), 9-28-79

50422 8-28-79 / Region IX Advisory Council, San Diego, Calif. (open), 9-27-79

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

49621 8-23-79 / Special Aviation Fire and Explosion Reduction (SAFER), Advisory Committee and Technical Groups, Moffett Field, Calif. (open), 9-24 through 9-28-79

National Highway Traffic Safety Administration—

52784 9-10-79 / Development and testing of techniques for increasing the conspicuity of motorcycles and motorcycle drivers, Washington, D.C. (open), 9-24-79

52784 9-10-79 / Evaluation of the feasibility of a single beam head lighting system, Washington, D.C. (open), 9-24-79

34235 6-14-79 / National Highway Safety Advisory Committee, Harpers Ferry, W. Va. (open) 9-27 through 9-29-79

15823 3-15-79 / Regional Safety Belt Usage Workshops, Seattle, Wash., 9-26 through 9-28-79

TREASURY DEPARTMENT

Office of the Secretary—

52785 9-10-79 / Foreign Portfolio Investment Survey Advisory Committee, Washington, D.C. (open), 9-27-79

VETERANS ADMINISTRATION

50947 8-30-79 / Advisory Committee on Health Related Effects of Herbicides, Washington, D.C. (open), 9-24-79

## Next Week's Public Hearings

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service—

48230 8-17-79 / Hawaiian and territorial quarantine notices; fruits and vegetables, Long Beach, Calif., 9-25-79

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

52852 9-11-79 / Mid-Atlantic and New England Fishery Management Councils, fixed gear regulations, Ellsworth, Maine and Asbury Park, N.J., 9-25-79; Ocean City, Md. and Buzzards Bay, Mass., 9-27-79

ENERGY DEPARTMENT

Economic Regulatory Administration—

52860 9-11-79 / Analysis of refiners' No. 2 distillate costs and revenues: July 1976-December 1978, Washington, D.C., 9-26-79

[Originally published at 44 FR 43761, July 26, 1979]

Federal Energy Regulatory Commission—

52178 9-7-79 / Alaska Natural Gas Transportation System, Washington, D.C., 9-27-79

51993 9-6-79 / Determination of alternative fuels for essential agricultural users, Washington, D.C., 9-24-79

51612 9-4-79 / Natural gas transported by interstate pipelines for delivery to other interstate pipelines, Washington, D.C., 9-24-79

52701 9-10-79 / High-cost natural gas, Washington, D.C., 9-24 and 9-25-79

52701 9-10-79 / High-cost natural gas, Denver, Colo., 9-28-79

52253 9-7-79 / High-cost natural gas produced from tight formations, Washington, D.C., 9-24-79 and Denver, Colo., 9-27-79

Office of the Secretary—

52170 9-7-79 / Extend entitlement benefits for middle distillate imports, Washington, D.C., 9-25-79

42755 7-20-79 / Motor fuel marketing subsidation; title III of the Petroleum Marketing Practices Act, Boston, Mass., 9-25-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Office of the Secretary—

53108 9-12-79 / White House Conference on Families:

Kansas City, Kans., 9-28-79

Lindsburg, Kans., 9-29-79

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office—

52098 9-6-79 / Restriction of financial interests of State employees, Washington, D.C., 9-25-79

INTERNATIONAL TRADE COMMISSION

50663 8-29-79 / Investigation on titanium dioxide being sold from Belgium, France, the United Kingdom, and the Federal Republic of Germany, Washington, D.C. 9-27-79

POSTAL RATE COMMISSION

12306 3-6-79 / Express mail metro service, 1978, 9-28-79

SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

49624 8-23-79 / Generalized System of Preferences (GSP), Washington, D.C., 9-24 through 9-28-79

TREASURY DEPARTMENT

Internal Revenue Service—

49701 8-24-79 / Determination of amounts at risk with respect to certain activities, Washington, D.C., 9-27-79

## List of Public Laws

Last Listing September 10, 1979

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

S.1646 / Pub. L. 96-64 To amend the International Banking Act of 1978 (Public Law 95-369) to extend the time for foreign banks to obtain required deposit insurance with respect to existing branches in the United States. (Sep. 14, 1979; 93 Stat. 412) Price $.75.

## Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the Federal Register during the previous week.

DEADLINES FOR COMMENTS ON PROPOSED RULES

53487 9-14-79 / USDA/FNS—School Nutrition Programs; State Administrative Expense Funds; comments by 11-13-79

APPLICATIONS DEADLINES

52755 9-10-79 / HEW/HRA—Financial distress grants; apply by 10-9-79

52755 9-10-79 / HEW/HRA—Physician Assistant Training Program; apply by 11-5-79

MEETINGS

53313 9-13-79 / HEW/HSA—Interagency Committee on Emergency Medical Services, Rockville, Md. (open), 10-31-79

53107 9-12-79 / HEW/NIH—Allergy and Infectious Diseases, National Institute, Bethesda, Md. (open), 10-15-79

53108 9-12-79 / HEW/NIH—Cancer Control Grant Review Committee, Bethesda, Md. (partially open), 10-28 through 10-30-79

53108 9-12-79 / HEW/NIH—Cancer Special Program Advisory Committee, Bethesda, Md. (partially open), 11-8 and 11-9-79

53108 9-12-79 / HEW/NIH—Clinical Cancer Evaluation Committee, Bethesda, Md. (partially open), 11-7 and 11-8-79

53107 9-12-79 / HEW/NIH—Diabetes National Advisory Board, Bethesda, Md. (open), 10-11 and 10-12-79

53107 9-12-79 / HEW/NIH—Epidemiology and Multipurpose Arthritis Centers Work Groups, Arlington, Va., 10-2-79; cancellation

[Originally published at 44 FR 49309, Aug. 22, 1979]